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PARLIAMENTARY DEBATES.



THE

Parliamentary Debates

During the First Session of the Seventh Parliament of the United Kingdom of Great Britain and Ireland, appointed to meet at Westminster, the Twenty-first Day of April 1820, in the First Year of the Reign of His Majesty King GEORGE the Fourth.

HOUSE OF LORDS.

Tuesday, June 27th, 1820.

SECRET COMMITTEE ON THE PAPERS RELATING TO THE CONDUCT OF THE QUEEN.] Earl *Grey*, wishing to spare their lordships the pain of unnecessary discussion on a subject on which it was most desirable that discussion should be avoided, rose to ask the noble earl opposite, whether any thing had occurred since yesterday to induce him to delay the meeting of the secret committee on the papers relating to the conduct of her majesty, which had been so often suspended, and which was ordered to sit to-morrow.

The Earl of *Liverpool* said, he had certainly, in consequence of that respectful attention which he thought due to the feelings of the House, and to the important nature of the subject, after the argument which had been heard at the bar, thought it his duty to propose that their lordships should be allowed twenty-four hours to consider whether what was stated in her majesty's petition, or what had been urged in its support, ought to induce them to make any change in the course of their proceeding. For his own part, he had no difficulty, upon the fullest consideration he was capable of giving to the subject, and after reference made to analogous proceedings on other occasions, which, though affording no direct precedent, might be in some measure similar, in declaring it to be his opinion that the course which had been at first adopted by their lordships, in appointing a secret committee, was that which was most fitting, with reference both to doing justice to the individual concerned, and to guarding the public interests. As long as there existed any hope that an investigation could be avoided, he had been willing to consent to delay; but when it was proved that the hopes which their lordships had been encouraged to entertain were become fruitless, there was nothing left for them to do but to proceed in the course which they had originally chosen. If the noble lord had any objections to urge to that mode of proceeding, he should, in reply, state the grounds on which he thought it ought to be adhered to by their lordships.

Earl *Grey* said, he felt himself placed in consequence of the noble lord's persisting in this measure, under the painful necessity of calling their lordships' attention to the grounds on which he proposed to submit to their consideration a motion for abandoning the course they had already adopted. Before, however, he proceeded to state the reasons which he hoped might induce their lordships to rescind the order they had made, for the secret committee, he thought some apology must appear due from him for venturing to make such a proposition. It might seem, that, in taking on himself the task of persuading their lordships to abandon that course which they had chosen after mature deliberation, which the able arguments of his noble friend had not been able to prevent them from adopting, which they had repeatedly refused to alter, and which they had persevered in notwithstanding various adjournments, he manifested no little presumption in sup-

posing that he could induce them to adopt another course, merely because he thought it more consistent with the principles of justice than the one on which they had decided. He entertained no hope which rested on so unreasonable a foundation. However strong might be his opinion of the impropriety of a measure, he certainly should not presume, immediately after it had received the deliberate sanction of their lordships, to propose that it should be abandoned, if it did not appear to him that a material alteration had taken place in the state of the circumstances, which made the case different from that which was before their lordships, when they adopted the resolution originally submitted to their consideration. When it was first proposed to refer the contents of that green bag which had been placed on their lordships' table to the consideration of a committee, the impropriety, injustice, and unprecedented nature of such a proceeding had been ably enforced by his noble friends. With regard to the last objection, the noble lord, in the answer given by him to the question he had put, admitted that no precedent for the course taken was to be found; but intimated that, on searching for proceedings of a similar nature, the present was the most proper mode of parliamentary inquiry which could be pointed out. He certainly was not aware of any precedent that could justify the mode which had been adopted, and in the absence of all precedent he thought it right that their lordships should be guided by their own judgment on the case. But even if there were precedents, still it would be for their lordships to consider whether they were bound to be guided by them. They might have been created in times when principles of equity had little influence, and might be repugnant to reason and justice. Whatever precedents, therefore, might have been adduced, he should still have thought himself entitled to require their lordships to consider the claim now made upon them by her majesty, and to decide according to equal justice. Their lordships ought to recollect, that the proposition made to them was, that they should now proceed to examine information of a nature totally *ex-parte*, in a case directly affecting the character and honour of the queen. This examination was to take place without affording her any means of explanation on the charges made against her—any opportunity of examining witnesses, or of saying any thing in her own defence. Upon such a partial examination their lordships were to make a report with a view to some proceeding in that House. Be that proceeding what it may, her majesty would inevitably be placed in a disadvantageous situation with respect to it, from the weight of their lordships' report, in the first place, against her. This was a general principle, on which he would in any case insist; but when he considered the situation in which their lordships stood, and the important functions, judicial as well as legislative, which they might have to perform, the objection acquired infinitely greater force. The charges supposed to be contained in the green bag were of such a nature, that it proved her majesty ought no longer to enjoy her high station. They were such as affected her life, and, what was to her of far more importance, her character and honour. Such was the nature of the case on which their lordships were to decide; and he called upon them to consider whether it was proper for them to come to a judgment under the suspicion of being prejudiced by previous proceedings, or of being biassed in their decision by the ministers of the Crown. It was true, it had been said that it was impossible their lordships could be called on to act judicially in this case; but were they now to proceed on the persuasion that another view of the subject could not be taken elsewhere? The other House of Parliament had equal authority with this to investigate the case, and might think it one which ought to be the foundation of an impeachment. The learned lord on the woolsack had stated, that no prosecution for treason could be instituted on the present charges, even supposing them true. He was perfectly ready to acknowledge the weight which was due to the learned lord's authority; but if, as a member of that House, he was not satisfied with the reasons given by the noble and learned lord, he could not be expected to abandon the opinion he had himself formed, especially as he found his own opinion fortified by legal authority, which he respected equally as much as he did that of the noble and learned lord. With regard to the construction put upon the statute of Edward 3rd, unless it was maintained that the words of the clause applied only to the forcible violation of the queen's person, he did not see how it could be doubted that she was to be held

an accessory, if the crime were committed in England, and with an English subject. He must also observe, and he could not persuade himself to concur in the subtile distinction taken by the noble and learned lord, that if the crime were committed abroad and with a foreigner, her majesty would be relieved from all the penalties which would otherwise attach to such an act. If, however, he admitted the doctrine of the noble and learned lord, he should still be of opinion that the means of applying a remedy through the medium of the House of Commons existed. On the supposition that her majesty had while abroad lived an immoral and licentious life, and committed such acts as in England would make her guilty of high treason, the idea that no judicial proceeding could be instituted appeared to him unfounded. If she were liable to such imputations he must contend that the Commons would have the same right to proceed against her as they possessed in all cases of offences which were not defined by the law. That House might therefore impeach her majesty, on the ground that she had rendered herself unworthy of the station she occupies. With all the respect he entertained for the authority of the noble and learned lord, he must in this case, be allowed to dissent from it; and he must be permitted to say, that it appeared to him that the great and powerful mind of the noble and learned lord had on this occasion been so limited by the mere technicalities of the law, that he could not look at the question in its proper light. He must also protest against another opinion which had gone forth respecting a supposed ground of vindication which might be set up. This was not a case in which recrimination could be admitted [Hear, hear!]. The offence, if there were any, was of a public nature, and could not be regulated by the rules which applied to cases of private injury. Such a principle as the admission of recrimination, he trusted would never be sanctioned by their lordships. It would have been equally improper to have allowed Thistlewood to defend himself by saying that his treason was directed against tyrants and oppressors, as to permit a vindication in this case by the accusation of another person. On these grounds he was of opinion that their lordships might still be called upon to act in their judicial capacity, in consequence of some proceeding taken by the House of Commons; and therefore he must contend that it was not consistent with justice to permit a preliminary investigation by a secret committee to take place. The report of that secret committee might do prejudice to the person accused, on whose case their lordships would have to decide. This question, it was true, had already been argued by his noble friends, and the House had thought fit to decide against their opinion. But the circumstances of the case were now greatly altered. It was at the outset supposed by his noble friends that the House of Commons might entertain a different opinion from their lordships, and that which was then regarded only as a possibility was now a matter of fact; for it appeared from the votes on the table, that a proposition similar to that which their lordships had adopted had been made to the other House; but that the Commons, instead of agreeing at once to the proposition, had not yet come to any decision upon it. They had suspended it, not in the manner done by their lordships, but in an anterior stage; for they had not appointed the committee at all; while in their lordships' House it seemed to be thought that the business ought to proceed with all possible expedition. After the proceeding was first suspended, a negotiation had taken place, which had failed; and now it appeared that the proposition in the House of Commons was a second time suspended, on the express condition that some measure was to come before that House from their lordships. In alluding to what had passed he might be allowed to state a supposed case. He would suppose, then, that it had been stated in another place, that their lordships' House might possibly institute a judicial proceeding. Suppose this statement had been made by some person in authority—by some statesman eminent for the correctness of his language, and the precision with which he always expressed his ideas [Hear, hear!]. The person who gave this opinion might be only stating his view of what he expected would be done by their lordships, but it was very extraordinary to suppose that a judicial proceeding should originate with that House. But suppose the same eminent statesman had farther observed, that if the expectation he entertained should be disappointed; if the course thus chalked out for their lordships should not be followed, and nothing should be done in that House; then he, the minister of the Crown would

be ready to stand forward as the accuser, and put the case in a train for inquiry before the only tribunal by which it could be judged, namely, their lordships' House. Their lordships must now perceive in what state they stood with respect to the House of Commons. It was a situation to the probable consequences of which they could no longer shut their eyes. If the determination of their lordships on any report made to them, after the examination proposed to be gone into by the committee, should be one way, it would be prejudicial to the accused; if another way, it would be against the accuser; but it was their duty to take care that they did nothing either to favour the accuser or the accused. They might, however, be placed in that situation; and nothing could, in his mind, be a stronger reason for altering the course in which they were now engaged. But the medium through which the inquiry was proposed to take place was of itself most objectionable. Secret committees had, unfortunately, of late, been too common in that House. So far was such a body from being looked upon with a favourable eye by the public, that the very name of a secret committee stamped a character of suspicion on the whole proceeding, and created in the mind of the public an apprehension that prejudice might influence the decision on the case. He never would advise their lordships to yield to any factious clamour, but he would say that it ought to be their first and most anxious care, not only to do strict justice, but to see that no step should be taken which might be calculated to excite distrust with respect to their proceedings. He had stated the grounds on which he objected to the course their lordships had pursued, and it certainly was not with the view of inducing them to yield to any popular clamour that he begged of them to consider the state of general suspicion into which the proceedings of the House might be brought. He had endeavoured to show that the course recommended by the noble earl opposite was inconsistent with the principles of justice, with the duties of that House, and with the respect due to the claims of the person who was brought in a state of accusation before them. That illustrious person came before them in a character in which he believed no queen of England had ever before appeared. She is a petitioner; she prays for a prompt inquiry, desirous that no delay may take place, but begs that she might not, by a previous proceeding, have the accusations against her sent forth into the world, not as the charges of her accusers, but as those of that House. He was not then to support her majesty's cause; he knew nothing of it, nor of her accusers; but it was his duty as a member of that House to contend in every case for the equal dispensation of justice. He was anxious that it should appear clearly to the public that every stage of the proceedings which might be adopted was consistent with the strictest rules of justice. Every possible care ought to be taken to obviate any odium to which the measures to be adopted might be exposed. He had already disclaimed the intention of recommending to their lordships to yield to any sort of clamour. No idea could be more averse from his mind. But when the call made was not factious—when it proceeded from the best feelings of human nature, from generosity and compassion—then it was not to faction he asked them to yield, but to the pure spirit of justice. [Hear!]. He had already stated, that no similar proceeding had ever before taken place. This, he believed, was not disputed, and their lordships must therefore feel it to be of more importance to pay attention to the character which such a proceeding must have in the eyes of the public. Their lordships occupied a high station in the country, distinguished by a long line of ancestors, possessing wealth, rank, and every thing that could entitle them to respect, and secure their perfect independence. Possessing these high advantages, they were bound to take the greatest care how they brought the character of their proceedings into question. But, however respectable their lordships were, they did not stand high in the opinion of the public with respect to any disposition to resist the propositions of the minister of the Crown. In what situation, then, would they stand with respect to public opinion, should their conduct on the present occasion be contrasted to their disadvantage with that of another assembly—if, after a discussion in the House of Commons on the same proposition which was before their lordships, his majesty's ministers thought fit to yield to the sense of that House, and abandon their intention, while they persisted in it in their lordships' House? In what light would they stand before the public, were this case, which he had supposed, to take place? These

reasons he thought were sufficient to induce the House to abandon a course, which, if persisted in, could not fail to prove generally odious. Ministers must indeed have great influence if they supposed that they could prevail on their lordships to take upon themselves a duty which belonged to the other House, and to become accusers after that House had declined the task. Were their lordships, then, prepared to take upon themselves all this odium—to relinquish the respect to which, by acting otherwise, they would be entitled? But for what were they willing to encounter the odium to which their proceedings exposed them? If they could show him that any advantage could be derived from the course they pursued, he would almost give up all his objections to it on the score of public justice. In the mean time he must ask, how this committee was to proceed? Were he a member of it, as soon as that green bag was opened, and a paper taken out purporting to be evidence against her majesty, he would not hear it read. He would protest that he must have the opportunity of seeing and examining the witness himself. He would insist upon being permitted to sift the person who brought forward such charges. If the committee were conducted on these principles, which were the principles of justice, it must be evident to their lordships that no time could be gained by the mode proposed to them. But after having gone through all this labour, and completed their report, they would still have a second trial to commence; for the illustrious person accused must some how or other have an opportunity of defending herself. Nothing, therefore, could be gained in point of time by examination of the committee. But of whom was the committee composed? It was stated yesterday by a noble friend of his, that it included four cabinet ministers: he should add, that with only two or three exceptions it consisted of members of that House, of whom he said nothing uncivil when he stated that they were persons who on all political questions concurred in opinion with the ministers of the Crown. When he besides stated, that at the head of this committee were the lord chancellor, the president of the council, the first lord of the Treasury, the secretary of state for the home department, the duke of Wellington, &c., what sentiments could it be expected to speak? Let not their lordships deceive themselves by the belief that the report of that committee would be regarded as any thing else than the report of the ministers of the Crown. He would then ask, what it was that the ministers did with the committee which they were not able to do without it? Was there any secret charm in the committee-room of that House, which was to inspire them with that energy, wisdom and justice, which they could not find in their cabinet? It was in vain to suppose that any effect would be produced on the public mind, by a committee appointed by ministers, that might not have been produced without one. He implored their lordships, then, to abandon the committee. But he did not therefore call upon them to abandon inquiry; for he was afraid that the advisers of the Crown had by their conduct brought matters into such a situation, that they could neither proceed without danger, nor retrograde without disgrace. It was therefore to be feared that the only way of escaping from their present straits—the only solution of the difficulty in which they were involved—was a fair, open, and impartial inquiry, that would answer the ends of justice and satisfy the public mind. But, in order to produce that satisfaction, it was not only necessary that the investigation should be fair and impartial, but above all suspicion. An inquiry might now be necessary; but he asked, whether it might not be as well or better to carry it on by a more simple mode of proceeding than by a secret committee? There were three ways in which the investigation might come before their lordships—either by an entirely judicial proceeding, which would originate in the other House, or by a bill of pains and penalties, which would also originate in the other House; or by a measure, partly legislative and partly judicial, which might in the first instance be brought before their lordships. In any of these three modes, the investigation might be properly prosecuted, the ends of justice obtained, and the character of their lordships' House preserved, without any proceeding by a secret committee. It was by no means to prevent inquiry that he had made this suggestion, or urged this course. It was only that he might induce their lordships to adopt a measure consonant to the principles of justice, satisfactory to the public mind, and not injurious to the character of parliament.—He could not but remark, that the conduct of ministers during the

whole of these proceedings had been most extraordinary, weak, and unjustifiable; and that, by their imbecility and vacillation, they had brought the question to an issue, which, as he had said before, they could not pursue without danger, or retract without disgrace. He would not enter into all the circumstances of their singular conduct, but he would say that they had brought not only the honour of the Crown, but the interests of the country into peril, and that without necessity or excuse. It was now more than twelve months since the extraordinary commission was appointed to inquire into her majesty's conduct abroad—he could not say by whom appointed, or how it had conducted itself—but it had been nominated to obtain the information on which ministers now acted. Nay, it was even twelve months since its report was received. Was it not the duty of his majesty's ministers, then, to take all the circumstances into consideration, and to act upon them, as it became them, for the honour of their royal master, and for the peace and welfare of the country? If, in their opinion, that report contained nothing which obliged them to bring any accusation against her majesty, it was their duty to have communicated that opinion to their sovereign, and to have set at rest reports which affected the character of the queen. If, on the other hand, they were convinced that matters of serious charge existed, and that that charge would be supported by the evidence which had been collected, it was their duty as soon as possible to bring forward the accusation, to bring it to the result which they foresaw it would have, and thus prevent all those dangers which might arise from suspending such serious charges over the character and conduct of her majesty. If they had preferred their accusation, collected their witnesses, served a notice on the queen, and brought the matter before parliament, the whole affair might have been by this time terminated, and all those evils which now threatened the peace of the country prevented or dissipated. If neither side of this alternative was expedient to be followed, and if the information collected regarding her majesty's conduct allowed the ministers of the Crown to think that the arrangement of her affairs admitted of negotiation and compromise they ought immediately to have entered upon that negotiation, and to have made that arrangement without impeaching her character. None of these three courses, however, had ministers pursued. They made offers of treating with her majesty, but they at the same time denounced a threat that all negotiation must terminate, and all adjustment be at an end, unless she complied with certain conditions; thus coupling a menace of proving criminal charges, with the offer of an arrangement wholly inconsistent with them. But how was it proposed now to proceed? When they found that her majesty would not attend to their offers, they now spoke of proving serious charges against her; but they did it with hesitation and delay, and a desire to divest themselves of all responsibility—a responsibility from which they would never be relieved by him. This was not the only instance in which this loose, disjointed, and feeble administration had divested themselves of the official accountability that attached to their stations, and left the business of the nation to be performed by the legislature, had abdicated the powers of government and devolved upon committees of parliament their duties and their responsibility. At a season of great public distress and danger, at a moment of great peril to the peace and tranquillity of the country, they had shown themselves unfit for the emergency, and called upon their lordships for direction. When the tempest arose—when the winds raged—when the waves beat high, the vessel of the state was left by them, without compass or rudder, to the mercy of the storm. The fury of the tempest increases—the crew becomes mutinous, and the pilot trembles;

Ipse pavet; nec se qui sit status, ipse fatetur
Scire ratis rector; nec quid jubeatve, vetetve:
Tanta mali moles, tantoque potentior arte est.

One of the members of that administration (Mr. Canning) and of course one of the advisers of the accusation against her majesty, had since declared, in his place in parliament, that he did not concur with his colleagues in their present measures, and had added with great emphasis, "So help me God, I will never become her accuser." But what did the right hon. gentleman say more? He spoke from his personal knowledge of the queen, and he called her "the grace, the life, and the ornament of society." If she deserved this encomium—if she was the "grace, the life, and the ornament of society," why was she not a fit partner for the throne of England? and why, when his colleagues

spoke of charges, did he shrink from giving advice to that effect? For he not only called her "the grace, life, and ornament of society," but added, that she was entitled to his highest respect and admiration. This, strange as it seemed, was not enough to show the conduct and state of the administration.—After strong instances of trepidation, uncertainty, and dismay, they agreed to a resolution which lay on the table of the House, on which, as it was a curious document, he would now make a few observations. Those very ministers who threatened the queen, who brought charges, as they expressed it, of a serious nature against her, and who, believing those charges, thought that she ought to be deprived of her rank and dignity, agreed in a resolution to address her majesty, humbly beseeching her majesty "not to press farther those propositions on which any material difference of opinion remains." Those ministers who threatened that, if she set her foot on the shore of England, proceedings would be immediately instituted against her, and that all compromise and negotiation would be at an end, resolved, now that she had despised their menaces, and arrived contrary to their inclination, to send a deputation of the House of Commons, praying her,—"bending low, and in a bondman's key,"—to be so good as to desist from farther demands, "such large advances having been already made to an adjustment of differences." They agreed to her title of queen; they conceded her most important rights, and they only supplicated her to surrender what they could not concede without a glaring retractation. Nay, one of these ministers had praised her for her boldness in coming to this country, which they had previously denounced as an offence, and the reason of their opening their charges against her. In the resolution, they said, "You shall be acknowledged as queen: foreign courts shall be told that you retain all your rights; you may have any thing but a place in the Liturgy, and a recognition of your innocence." Could any thing be more base and contemptible than such conduct?—He now came to a passage in the resolution, on which he would stand as on a rock, and resist the inquiry, and the mode in which it was proposed to be conducted. Her majesty was accused—the charges were in the bag—a committee had been proposed; and yet they paused, and agreed not to open the bag, but to address her majesty with all respect and submission, to surrender some of her rights, that inquiry might be prevented. In defence of their conduct one of the ministers in the other House stated, in that curious phraseology which he sometimes used, that with such serious charges existing, if they had not called for inquiry, "ministers would have been a contrast to themselves." If they did alter their manner of governing this country, and thus formed a contrast with their former administration, he, for one, should rejoice at it. The resolution said, that the House of Commons should address her majesty to give up the points of difference, "thereby entitling herself to the grateful acknowledgments of the House, and sparing the House the painful necessity of those public discussions, which, whatever might be their ultimate result, could not but be derogatory from the dignity of the Crown, and injurious to the best interests of the empire." Here, then, was a declaration that the ministers had proposed to institute an inquiry which could have no possible result but one derogatory from the dignity of the Crown, and injurious to the best interests of the empire. What necessity was there for this inquiry but an alternative replete with greater evil; and what result could be more calamitous than one so characterised? This was stated to be the result of the inquiry by a committee, whatever the termination of the inquiry might be. But this had been said to be a mere quibble, and a distortion of the words of the resolution. But did the words mean any thing? And if they did mean any thing, what other construction could they bear, than that great evil would result from a secret inquiry? The injury could not arise simply from the exposure of the conduct of the queen; for, if she had been living in a course of vice abroad, it could be no injury that her behaviour should be investigated, and that she should be separated from the throne; and if, on the other hand, she was innocent, it could not be derogatory from the honour of the Crown, or injurious to the interests of the empire, that her innocence should be establihed [Hear!]. But when proceeding by a secret committee was declared so calamitous, would their lordships persevere? He could not think that it was consistent with justice to prosecute inquiry in this mode; and he was sure it would be injurious to the high character of parliament. The inquiry, if

necessary, should be prosecuted without delay, with justice and impartiality, with due regard to the character of parliament, and the honour of her majesty.—These were the grounds on which he made his motion to discharge the order for the meeting of the secret committee. He knew nothing of the accusation against her majesty—nothing of the witnesses by which it was supported—nothing of the evidence by which it could be repelled. But on this principle he stood, that there should be no secret investigation—that there should be no inquiry that was acknowledged to be derogatory from the dignity of the Crown, and injurious to the best interests of the empire. He knew nothing of the charge or defence, but he saw no means of obtaining a proper adjudication but by a public proceeding. He therefore implored their lordships to desist from a secret investigation, as contrary to law, and exposed to odium and suspicion. The noble earl concluded by moving, that the order for the meeting of the secret committee to consider the papers referred to their lordships be discharged.

The Earl of *Liverpool* said, he had heard the speech of the noble earl with great surprise. The beginning of it contained a legal argument against the mode of proceeding adopted by their lordships, in which he said that the present was no party question, but that it ought to be decided by the principles of justice. How much, therefore, was he surprised to hear the noble earl, in the conclusion of his observations, so completely belying his professions, and making one of the most inflammatory party attacks that was ever made within the walls of parliament [Hear, hear!] This attack was general, and he (lord Liverpool) was prepared to repel it. He was prepared to appeal from the judgment of the noble earl, to the country, to parliament, and to posterity, and to be tried by them for the conduct pursued by himself and his colleagues for the last eight years. He was willing that their counsels and acts should be compared with the counsels and acts of the administration with which the noble earl had been connected. He would ask their lordships what now would have been the situation and prospects of the country, if the counsels of the noble earl and of his friends had been followed? He again declared that he was willing to be tried for the general conduct of administration by the country, by parliament, and by posterity. In the present case he had no difficulty in explaining or defending the whole of his conduct, and that of his colleagues, without reference to any parliamentary resolution. He was prepared to state, that proceedings against the queen would be an evil, that they could not be undertaken without great inconvenience, and ought not to be prosecuted unless to encounter a greater inconvenience. The principle acted upon to prevent her majesty's coming to this country was in his opinion wise and expedient, and was, he was conviced, approved of by nine-tenths of the country. Was there any alternative, then, when she arrived, between allowing her all the honours and privileges of her rank, or placing her in a state of accusation? Unless a message had been brought down to the House, containing charges against her, how could their lordships or the other House of Parliament consistently omit to present her with addresses of congratulation on her arrival? But after they had taken their ground the noble earl accused them of vacillation in their subsequent course. He knew of no vacillation; he had moved that the papers on their lordships' table should be referred to a secret committee, and that motion was adopted. It was true that a strong sense had been expressed in another House that a fresh attempt at negotiation should be made; and that, concurring with the wishes and opinions of his majesty's ministers, had been agreed to by them. Words had been quoted in an irregular manner, as having been uttered in another place; but without meaning to say that there was any intentional misrepresentation, he could say, from inquiry, that they had not been accurately published. The resolution adopted in the other House had been called the resolution of ministers; if this meant that it had received their support, the assertion was true; but if it meant to insinuate that they had any knowledge of it, even an hour before it was moved, the statement was altogether unfounded. He was prepared to deny the doctrine of the noble earl with respect to the resolution and to maintain that though the trial of the queen might be a great public evil, still a greater evil might be encountered by not proceeding under certain circumstances. He trusted the House would believe that ministers wished to avoid investigation in the first instance, but if it was instituted

they did not wish to avoid responsibility. The first consideration was, whether the course of proceeding which had been proposed was wrong, as had been stated by the noble lord, with reference to the House of Commons: and the second, whether a preliminary inquiry by a secret committee was wrong, with reference to their lordships themselves. The noble earl called on their lordships to preserve the high character which they had in all times past maintained in the exercise of their judicial functions. He too hoped their lordships would not overlook this consideration; for it was matter of satisfaction to reflect, that if there existed in the world a tribunal whose character for strict justice and rigid impartiality was unimpeached, that tribunal was the House of Lords of this kingdom. But the noble earl said, that even supposing the course adopted to have been right in the first instance, circumstances had intervened that now made it wrong. He, on the contrary, maintained, that those intervening circumstances, so far from furnishing any reason for deviating from the original course, afforded their lordships additional inducements to persevere in that course of proceeding. It had been said that this subject had been taken up by the other House of Parliament, and, for aught their lordships knew, might be made the ground of an impeachment; and that therefore their lordships ought not to institute an *ex parte* inquiry into a matter on which they might be called on to decide in their judicial capacity. Now, undoubtedly, he conceived that the main cause of laying this charge before their lordships was the consideration that an adulterous connexion could not be made the ground of an impeachment, or of any other legal proceeding; and that ground he was prepared to argue with the noble lord, who appeared to question the law of his noble and learned friend on the woolsack respecting the proper construction of the statute. He would say of his noble and learned friend, that no one's opinion on legal questions had so much weight with him; but he could also say that every other legal authority that had been referred to —and many other eminent authorities had been consulted—supported the same construction. By the statute of Edward 3rd, the violation of the king's wife, or his eldest son's wife, or his eldest daughter was declared to be high treason. The noble earl proceeded to argue on the construction of this statute and contended, that as there was no substantive crime in the act of the woman, her guilt must be inferred on the ground that she was an accessary to the crime. If, then, the accessary were criminal; it followed that the principal must also be criminal; and, indeed, any other supposition would be absurd. But, in the present case, if the principal in the adulterous act was a foreigner, there was no treason on his part at all; and how could it be said that in such a case the accessary was guilty, since, in the eye of the law, the guilt of the accessary was the same as that of the principal, and here no principal was guilty? He confessed that for some time he had great doubts on this subject, but after consulting all the legal authorities to whom he had access, his doubts had been completely removed. But the noble earl had said, that though there was no treason in the present case there might be other great state offences on which their lordships might be required to decide judicially. He agreed so far with the noble earl; but if there existed any crimes of that description, they must be such as were known to the common law of the country, and therefore adultery could not be included in that class [A peer on the Opposition benches dissented from this opinion]. He said that adultery was a civil injury, but no crime, and that opinion had been distinctly expressed by a noble lord (the late lord Auckland), who had brought in a bill to make adultery a crime. That which was not a crime by the common law could not be tried before any of the ordinary tribunals of the country, and indeed, if that were not the case, there would be no protection for the subject. While he had any thing to say in that House, he would never endure the doctrine that they had a right to create for the occasion, a crime which did not belong to the law of the land. This matter being so stated, he now came to the consideration of what was the only remedy in the present case—of what was the only course of proceeding for their lordships to adopt. The only proceeding in his opinion, which was applicable to the present case, was a legislative one: it might be a bill of Divorce, or a bill of Pains and Penalties, but it was necessary that there should be a legislative proceeding. He was likewise authorized by the precedents recorded on their Journals to say, that the proceeding might originate

in that House as well as in the other. And this brought him to the consideration in which House of Parliament it would with most propriety originate. He thought that the circumstance of their lordships being in the habit of examining witnesses on oath, independently of various other important considerations, was a decisive reason why it should originate in their lordships House. He therefore would repeat, that in the present case they could adopt no other than a legislative course of proceeding, and that it ought to arise in that House rather than in the other. This opinion seemed also to be entertained by the House of Commons, which had suspended its proceedings in the expectation that their lordships would commence some measure on the subject; and what his noble friend (lord Castlereagh) had stated on that occasion was, that if some legislative measure were not introduced in the House of Lords, he would propose one in the House of Commons. To him it appeared that a legislative proceeding was the only course that could lead them out of the present difficulties and that this proceeding should originate in the House of Lords, it being competent for either House to commence it, but preferable that it should arise from their lordships. He came now to the question more immediately before the House;--namely, whether, supposing a legislative measure to be proper, it ought to be preceded by any inquiry, and whether that inquiry, if admitted to be necessary, ought to be made by a secret committee? He had looked into most of the bills of pains and penalties that had been brought before the House, and he could find no case in which such a bill had been introduced without some previous inquiry. In the view in which the noble lord objected to a secret committee, he would ask, where was the distinction between an inquiry before a secret committee, and an inquiry before the whole House? The noble lord opposed a secret committee, on the ground that it was calculated to excite a great prejudice in the public mind; but if a preliminary inquiry of some kind were necessary, and if, as the noble lord contended, the tendency of such a proceeding was to excite prejudice, it would follow, that the more public the inquiry, the more prejudice would be caused. But he had no difficulty in saying that, even if the course now proposed had not been sanctioned by the general usage in introducing such bills, he should still have thought it highly fitting in the present case. This was an accusation against the first subject in the realm, and the case could not be entered into without great difficulty and great delicacy. Was it fitting, he would ask their lordships, that the House, on the mere *ipse dixit* of a minister, and without inquiring for themselves, should decide that there were grounds of proceeding against the illustrious individual who was accused? The noble lord had assumed—and the assumption certainly was not parliamentary—that this committee must report that there were grounds for farther proceeding. There was no such necessity; it might report that there were not, as well as that there were, grounds. But even if the evidence should not appear altogether decisive, or if other difficulties should arise which might render a different course of proceeding advisable, would the noble lord say in that event, when such great interests were at stake, that no authority should be interposed between ministers and the parties concerned? He had looked at all the bills of Pains and Penalties that had been brought into parliament, and in nine cases out of every ten a proceeding by impeachment might as well have been recommended; and yet the noble earl called on them to stop this proceeding, because the House of Commons might impeach. He had listened attentively to all the arguments which had been so eloquently urged at their bar by her majesty's counsel; but, ably as the learned counsel had argued, he had not heard from them one word that bore on the present question. The learned gentlemen had said, it was unfair that the charge should proceed till the queen was prepared for her defence. In that opinion he agreed with them; and he thought that she and her counsel should have their choice as to the time at which the requisite delay should be granted—whether it should be before the trial commenced, or after the charge and the evidence in support of it had been brought forward. But the inquiry before the secret committee did not imply any charge. Their lordships, by referring the papers to a committee, were not by that proceeding making any charge against her majesty, but were merely ascertaining whether any charge should hereafter be made. When that committee had reported, and when the bill found-

ed on the report had been brought in (supposing the report to be in the affirmative), then would be the time to consider what delay was necessary, and at what stage of the proceeding it would be most desirable. But the question now was, whether there should be preliminary inquiry—whether the proper course of proceeding was by a bill of Pains and Penalties, and whether, the measure should originate in that or in the other House of Parliament. He had shown that there had been a preliminary inquiry in every other similar case, and that such a one as was now proposed was most consonant to former practice. The noble lord had spoken of the clamour and discontent which this inquiry was likely to excite; but he would not suffer himself to be swayed by arguments grounded on the clamour of the factious and discontented out of doors [Hear, hear !]. He did not, however, believe, that the proceedings of a secret committee were looked to with that jealousy and prejudice which the noble lord represented.—His lordship next adverted to the observations which had been made on the selection of the members of the committee, and observed that it was composed of peers as honourable and as well qualified in every respect as could possibly have been chosen. With regard to what had been said on a former occasion by a noble lord (Dacre) respecting the responsibility of a right reverend prelate, the archbishop of Canterbury, for the erasure of her majesty's name from the Liturgy, it was due from him to state that the remarks on that subject were not just. That right reverend prelate was in no respect answerable for the omission, and whatever might be thought or said of that omission he took the responsibility of it on the executive government. What he was anxious to impress on their lordships, with regard to this inquiry, was, that they should not be deterred from the discharge of their duty by clamour and faction either out of doors or within doors. If they were fully persuaded that the course now recommended was the one most analogous to the former usage of parliament, let that consideration guide their lordships' conduct. But if they thought that the course proposed bore hard on the illustrious individual who was the subject of the proceeding, then he would call on them to vote for the motion of the noble lord. They had delayed the inquiry in the hope that all investigation might be rendered unnecessary; that hope had failed, and they were now called upon to adopt the course usually pursued in similar cases. Their lordships were now called on to look at those sealed papers which had been sent down by the king, not for the purpose of trying the illustrious person whose conduct they concerned, but in order to to see whether any investigation of her conduct was necessary.

Lord *Erskine* said, he wished to give his opinion on the question at that early period of the debate, because he was the only person on that side of the House who had originally voted for a secret committee. His opinion with respect to the propriety of that vote was not since changed, but he differed from the proceedings of the noble lords opposite in many respects, so far as to render it impossible for him to continue longer on the committee. When the committee was first appointed he certainly felt great reluctance to be nominated as one of its members. Certainly he did not think, that according to the statute of Edward [illegible] there could be any impeachment. The House of Commons might, it was true, impeach; but their lordships were the judges, and would not consent to any proceeding which the law of England would not justify. He looked, however, to probable contingencies; and he thought then as he thought now, that it was not probable the House of Commons would prefer any impeachment for misdemeanor. But what was the state of things at present?—It was impossible when the committee was nominated to foresee the turn which affairs had taken. For the House of Commons, generally, and for many members of it individually, he entertained great respect. But he confessed his surprise at the proceeding they had adopted. He had already stated his opinion on the omission of her majesty's name in the Liturgy. When he looked at the act of Uniformity, he doubted if any power existed in the Crown to direct that omission. The words in the act were very strong. They stated, "That the names should be altered and changed, and suited to the occasion." It was evidently intended, however, only that the names should be changed, but not that the individuals should be omitted. In the address which had been voted to her majesty by the House of Commons, it was said,—"That this House, fully sensible of the objections which the queen

might justly feel to taking upon herself the relinquishment of any points in which she might have conceived her own dignity and honour to be involved; yet feeling the inestimable importance of an amicable and final adjustment of the present unhappy differences, cannot forbear. declaring its opinion, that when such large advances have been made towards that object, her majesty, by yielding to the earnest solicitude of the House of Commons, and forbearing to press further the adoption of those propositions on which any material difference of opinion is yet remaining, would by no means be understood to indicate any wish to shrink from inquiry, but would only be deemed to afford a renewed proof of the desire which her majesty has been graciously pleased to express, to submit her own wishes to the authority of parliament; thereby entitling herself to the grateful acknowledgments of the House of Commons, and sparing this House the painful necessity of those public discussions, which, whatever might be their ultimate result, could not but be distressing to her majesty's feelings, disappointing to the hopes of parliament, derogatory from the dignity of the Crown, and injurious to the best interests of the empire."—It was absolutely impossible that the queen could accede to this request. Her counsel had last night declared at the bar, that the queen demanded the right which any other subject possessed, of a public trial. When his name was added to the committee, he had no idea that he should be asked to do what was considered "derogatory from the dignity of the Crown, and injurious to the best interests of the empire." All that he expected to be called upon to do was, to examine the nature of the evidence contained in his majesty's communication. He considered it as a kind of indulgence to the illustrious individual in question, since, if a secret committee were to determine that there was nothing against her, no calumniating tongue could have injured her character; and if on the contrary, the committee were to determine that the evidence was sufficient to justify a proceeding, that proceeding must take place openly before the House and the country. Now that her majesty insisted on a public trial at once, the case was different, and he should unquestionably vote for his noble friend's motion. It was impossible for parliament now to recede, unless the queen consented to such a step.

The *Lord Chancellor* was anxious to state to their lordships the reasons by which he was actuated in the course that he took on the present occasion. His noble and learned friend who had just sat down, had surely forgotten that the question of the omission of the queen's name in the Liturgy was just in the same state as that in which it was when his noble and learned friend so powerfully argued in favour of the appointment of the committee. Adverting to what had been said by the noble mover of his construction of the statute of Edward 3rd, he complained that the noble earl had, although he was sure quite unintentionally, misrepresented his former statement on that subject. He then proceeded to show how far the statute of Edward 3rd, relative to high treason, referred to the case of a queen-consort accused of adultery, and said, that it was only by a forced construction of that act that she could be viewed as guilty of high treason. He declared this to be his opinion, after a careful examination of the text of lord Coke, who could not make out the doctrine which he had laid down, except by twisting the words of an act of parliament into a sense which they did not naturally bear. Such a plan of proceeding was unjust, and ought on no account to be allowed. Lord Coke's way of making adultery in a queen-consort high treason was by considering the party with whom it was committed guilty of high treason, by looking upon her as an accomplice with him, and by then stating that in treason all the parties were principals. This way of construing adultery into treason, defective as it was, could only apply when the adulterous intercourse was carried on with a subject of the realm; but how could it be so construed when the adultery was committed with a foreigner abroad, who, owing no allegiance to this country, could not be guilty of high treason, or indeed of any other offence against its laws or institutions? His noble friend had said, that supposing evidence existed to convict the queen of high treason, he should not have thought it requisite to have referred the case in the first instance even to the House of Commons, but would have considered it the duty of his majesty's confidential advisers to have instituted proceedings at once before the proper tribunal, and to have put her on her trial according to the regular course of law. But this mode of proceeding, even

supposing that circumstances had occurred which had rendered it necessary, and he by no means intended to assert that such circumstances had occurred—for at present he was only speaking hypothetically—this mode of proceeding, he asserted, would have been attended by so many difficulties, of which, independently of the technical objection which he had just urged, not the least would be the procuring of three witnesses to the particular act of treason, that he should have given it as his sincere and deliberate advice to his majesty's ministers not to agitate the question in that manner.—Having stated thus much upon this mode of viewing the subject, he would in the next place state in the most impressive tone which he could command—and he wished that his voice was loud enough to to convey the opinion from one corner of the empire to the other—that those persons brought a most abominable and unjust charge against his majesty's ministers, who said that they were desirous of disposing of this important question in the most offensive way that the public imagination could conceive, when it heard the words "secret committee." For his own part, he must confess, that he should go into that committee with no other view than that of executing justice fairly and impartially between the two illustrious parties who were implicated in this transaction. He owed many obligations to the Crown for the favours which it had, for no merits of his own, so lavishly bestowed upon him; but let his obligations to the Crown be ever so great, there would be no punishment to which the noble lord opposite could bring him which would be too severe for him, if he, during the prosecution of the inquiry into which they were about to enter, holding the high judicial situation which he held, willingly lost sight for a moment of the great principles of English justice. He would go further than this, and would say, that even if his colleagues with one consent, were to agree to bring in a bill of Pains and Penalties against her majesty, without entering into an investigation of the charges exhibited against her, he, for one, would not consent to being made a party to such bill, relating, as it would relate, to the most illustrious female in the kingdom. But then it was said, that ministers in bringing down the bag to the House, and in leaving it, as they had done, on the table, had shown a desire to shrink from the responsibility which ought to attach to them. This he positively denied. He was himself one of the ministers who had brought down the bag in question, and he shrunk from no responsibility that might attach to him for so doing: nay more, he would acknowledge that ministers in bringing down that bag were fully as responsible as if they had brought in a bill of Pains and Penalties. But the present was not a mere question of how far the ministers were responsible for the measures which had lately been pursued—they might have acted rightly, or they might have acted wrongly—they might deserve applause or they might merit public execration—the king and queen were personally interested in it, and therefore the public were in a situation in which the responsibility of ministers was but a point of minor importance, and consequently they might better endure the taunts which were made against them on account of ignorance, stupidity, precipitancy, and vacillation, in dealing with the contents of the bag which they had produced. Individually he might have a knowledge of what those contents were; but as a peer of parliament he could not at present disclose them. A secret committee had been appointed to decide whether they ought to be disclosed or not; but it was now represented, that it was unfit that it should assemble, because those who were upon it might hereafter be called upon to act as judges. Unless he had mistaken the whole course of parliamentary history—and he could assure their lordships that at various periods of his life he had paid considerable attention to it—whenever a secret committee had been proposed to interfere between the propositions made to their lordships and the acts of their lordships consequent on those propositions—as was usual upon bills of impeachment, bills of pains and penalties, and bills of attainder—it had never been previously urged; and therefore he thought it rather too much that he should be now told, that their lordships were not to interfere, either by public or private committees, as they might afterwards be called upon to act in a judicial capacity. If they gave way to such an argument, their lordships would be giving up certain of their functions of which they had been in undoubted possession for many centuries. It was no objection to the appointment of a secret committee, that it might do nothing, or that it might recommend nothing

to be done, or that it might order the attorney-general to impeach, or that it might advise a bill of attainder, or that it might suggest a bill of Pains and Penalties: all these things it certainly could do, though the papers which came out every morning, and which misled the public as regularly as they came out, had asserted that no bill of attainder could originate in their lordships House. In answer to the general aspersions which the noble earl had thought proper to cast on secret committees, he would tell the noble earl, that high as was his rank, and great and deserved as was the general estimation in which he was held, he would not on that night have been in that House freely expressing his sentiments in debate, had it not been for the labours of some of the secret committees that he had attacked. For his own part, he thought that the appointment of a secret committee would be a shield of protection for her majesty [Here some noble lord said, "But she won't use it"]. He had been informed that she would not use it; but his duty to the public urged him to inform her majesty, that her interests must be better defended than they could be by the mere responsibility of ministers. But it was also said, as he had before observed, that the noble lords who formed the secret committee might afterwards become part of her majesty's judges. This, however, would also be the case if a public committee were appointed, and therefore was an objection not so much against the committee being a secret one, as against the appointment of a committee altogether. But their lordships must be aware that they had never yet gone into the investigation of a charge without considering whether there were sufficient grounds for doing so; and he had never heard that the members of secret committees, sacred as were the functions, and important as were the duties which they had to perform, had performed the duties which it fell to their lot to discharge in future stages of the transactions submitted to their consideration, with less fidelity than those of their lordships who had sat on public committees, or who had not been in committees at all. He would endeavour to prove by another argument, that there was no just ground for saying that they were acting improperly in appointing a secret committee to decide on these papers, because the members of that committee might afterwards have to decide upon them judicially. The House of Commons, in commencing an impeachment, had three modes of proceeding—by a secret committee, by a select committee, or a committee of the whole House: but had it ever been said that those who had been upon any of these committees should not vote on the question of acceding to the report? If such a doctrine were to be laid down, how would it be when an impeachment was thought necessary by a committee of the whole House? Why, in that case, as the whole House had been in the committee, the report could not be received, and an impeachment could never be instituted. He allowed that the analogy which had been drawn between the appointment of a secret committee on this occasion and the functions of a grand jury fell short and imperfect; as also that between it and the case of a judge in the King's-bench granting a criminal information, which he might afterwards be called upon to try, but, unless such a committee were appointed, they must always originate measures without knowing or caring any thing about the necessity of doing so. He was well aware that he had often been represented, not indeed as a *velocipede* judge, but as one who was fond of delay; but in spite of such representations he should always make use of and grant that delay which was essential to the purposes of justice. The legal advisers of her majesty were now requesting delay, not indeed in the progress, but in the commencement of the prosecution, on the ground that they knew nothing of the charges to be exhibited against her majesty, and had all the witnesses to collect requisite to defend her against them. In saying that no more delay than was necessary ought to be granted to them, he thought he was acting in the most impartial manner towards those two illustrious personages who were most interested in this inquiry. Such delay as was necessary, he must again repeat, he would willingly grant; but he could not see on what grounds her majesty's legal advisers, or indeed any of the noble lords who seconded their arguments, could demand a delay of two months, when, according to their own showing, they knew nothing of the charges exhibited against her majesty, and therefore could not possibly be informed of the witnesses who might be wanted to refute them. As for himself he cared little for the decision to which the House might

come that evening, provided it pursued such measures as were calculated to promote the dignity of the Crown, and the interests of the empire: he had stated the reasons which had induced him to oppose the motion of the noble lord for the discharge of the order of the day, and he could assure the House, that he had stated them with the utmost sincerity. If further proceedings in this important inquiry should be deemed necessary, he should enter upon them in the spirit so ably described by an eminent English judge, who declared that he had made a covenant with God and himself, that neither affection nor any other undue principle should ever make him swerve from the strict line of his duty. In that spirit he had always endeavoured to act during the past, and should endeavour to act in the future. The consciousness of doing so would be the best consolation he could possess if he should appear to the friends whom he esteemed to act wrongly, and would form his best title for pardon at the hands of that God, before whose tribunal all mankind must sooner or later stand to be judged.

The Marquis of *Lansdowne* commenced by observing, that much as it would pain him to differ on any occasion with his noble friend who had brought forward the present motion—and it would give him more pain to differ from him on this than on any other question—still he must solemnly declare, that, if he could bring himself to think that the House was in a situation in which it could consistently with its own dignity and the principles of justice rightly understood, either close this painful scene for ever, or enter upon it afresh with a better chance of success than that which had attended their late efforts, he would most certainly not give his vote in favour of the motion of his noble friend. But not seeing that there was any chance of effecting either of those purposes, he should not enter into any idle discussions upon them, but should confine himself entirely to the question at present before the House, which was indeed of itself sufficient to occupy their undivided attention. He would therefore ask, whether the mode of proceeding, to which, after repeated adjournments, it was now proposed to adhere, was, in the first place, consistent with the forms of the House; and, in the second place, whether it was calculated, if it was necessary—and if it was not necessary, it certainly was not calculated—to further the great work which it seemed now determined that the House should immediately commence? And here he could not help observing, that ministers had done that which they ought not to have done—they had assumed to themselves the right of determining what the Commons of England would do with regard to the accusations which were now laid before them. Both the noble lord on the woolsack, and the noble earl opposite had argued the question upon what they supposed the opinions of the House of Commons would be, and upon the alleged crimes which were contained in the green bag now before them. This he maintained, was not proper, because as the noble lord on the woolsack had told them that he had, during the whole course of his professional life, learned and laborious as that life had been in the practice of the law, entertained until very lately opinions diametrically opposite to those which he now held on the subject of high treason, as committed by a queen of England, it was possible that there might still be in the House of Commons men entertaining the opinions so lately rejected by the noble and learned lord, and determined to act upon those opinions, in opposition to the line so positively marked out both by the noble and learned lord himself, and also by his noble colleague. But the noble and learned lord had only alluded to one accusation—of which, though he well knew the nature, he (the marquis of Lansdowne) would forbear, as long as he could, to mention the name—when he (lord Eldon) well knew that there were other matters of misconduct contained in the bag on the table, not at all connected with the description of the offence to which he had before alluded. Had they, when such was the case, any right to assume that the House of Commons was perfectly certain to adopt the same line of conduct as that which they had recommended? They had assumed it; but what was the real fact? He was not disposed to violate the forms of that House by alluding to phrases used in the other House of Parliament, though he was inclined to contend that those phrases were the very phrases used within it; but to the votes of that other House, he was bound to look, whenever it received a communication from the Crown. Had that communication, he would ask, been disposed of by the other House? No: but he found that a specific resolution had been made to refer the consider-

ation of it for six months, and that it had been rejected. Was he not entitled from that circumstance to infer, that the Commons would still consider it? It was his opinion that they would; and he therefore must contend, that until they had determined whether a judicial proceeding against her majesty ought or ought not to be instituted, their lordships ought not to appoint a committee to examine a subject on which they might afterwards be called upon to decide as judges. "But why not?" said the noble and learned lord on the woolsack; "members of committees have always been allowed in times past to vote upon the important questions which they may have examined in those committees." He could not help observing, that at the very time when the noble and learned lord uttered these words, he almost perceived that there was no analogy between the two cases. The cases which he had quoted were cases in which proceedings had originated with their lordships; in the present case measures might originate with the other House, which it was not possible to originate among their lordships. With respect to proceedings in the other House of Parliament, and against a most illustrious individual, their lordships, by instituting any measure, would disqualify themselves from judging; and they would thus disqualify themselves, without any precedent, and without that regard to justice which had always governed, ought always to govern, and he hoped, would always govern their lordships' conduct. But if their lordships were not to disqualify themselves from acting as judges by the instituting of a secret committee, still he must consider a secret committee most inexpedient, because most unjust. A noble lord had said that there were no instances of bills of pains and penalties, without inquiry; but since the Revolution it had not been the practice of that House to institute bills of pains and penalties, and therefore it was difficult for him to find an instance of previous inquiry without a secret committee. In the last instance on their records before the Revolution—that of lord Clarendon—there had been no committee appointed in that House, and no previous inquiry. It was true, there had been inquiry in another House, and an impeachment had been voted, when lord Clarendon withdrew out of the country. But there had been already one *ex-parte* inquiry in this cause; there had been already a secret commission appointed, notoriously for inquiring into the conduct of the illustrious party now accused. He would not here say whether that commission had been necessary or not necessary, he did not consider whether it had been properly or improperly instituted; whether it had been properly or improperly conducted; but if another secret inquiry was now proposed, surely that illustrious person was at least entitled to say, "Let me have no more secret inquiry; if I am accused, let me fairly hear the charges against me, and offer my defence." But if they were now to institute other measures than had before been intended, they must surely apply their attention to the settled rules of the House. In former instances, the House must have been governed by established and recognised rules. The orders and rules of proceeding in that House were a shield of protection, not an optional mode of proceeding. God forbid that that House should not have the most solemn records to authorize and regulate their proceedings! But he asked, whether it was not a great defect to find not a single instance before of a bill of Pains and Penalties thus instituted? The only argument that had in the first instance been urged for this proceeding was, that it was for the benefit of the accused. But surely the accused had a right to disclaim that benefit. Here, then, was a proceeding proposed which was not necessary, which was calculated to excite the most unfavourable suspicions and apprehensions, which would disqualify their lordships from the free and unprejudiced exercise of their peculiar functions, and which the illustrious accused said was calculated to prejudice her defence, and could be no benefit. Was he not therefore entitled to say that this mode of proceeding was inexpedient? Therefore the proceeding by a secret committee, he contended was calculated only for delay, which was already too great. As long as there was any prospect of preventing any disclosure to the public, delay might have been proper and useful; but from the moment that such prospect ceased to exist, and that had been notoriously the case so far back as last summer, all delay had in fact, and could have, only the effect of agitating unnecessarily the public mind, and of prejudicing justice in the greatest cause which could come before their lordships. Yet when they had instituted this committee their lordships had not advanced

one step. The names on the committee were unquestionably respectable. But when they considered that his majesty's ministers were among them, and that they had been examining and considering the documents to be laid before the committee for more than a year, and had not agreed whether they should become public accusers or not, what could be expected from the committee? When the noble earl had brought down the papers, he had avoided as much as possible saying any thing of the view taken of them by ministers, and he had for the first time this night said that ministers were public accusers. Yet there were others of his majesty's ministers, who had the same opportunities of inquiring into the merits, and who said that they were not accusers, and never would be accusers. Would the addition of two, three, or four of their lordships to the number of ministers, elicit any thing more consistent or more satisfactory, or possess greater authority with their lordships? They would therefore be reduced to the authority of those who had brought down the message, and on that authority they would be obliged to proceed, or not proceed at all. Why, then, institute a secret committee, which could only excite alarm and agitation throughout the country, and prove prejudicial to the character of the illustrious accused, and the interests of justice? He had carefully considered the subject, and he certainly did not feel it to be his duty to attend that committee. If by attending the committee he could be of service in the slightest degree to justice—if he could, without that publicity which was precluded by such an inquiry, promote truth—if he could be of use in any fair and consistent shape, he would have attended, and made every sacrifice of feeling and private inclination. But as it was not so, he would decline to attend. He had refrained from saying so till now, because he had entertained hopes, though from the beginning his hopes had been faint, of an arrangement that would save their lordships from all inquiry on the subject. Before he sat down he begged leave to express his anxious hope and his fervent wish that in this proceeding—the most awful, the most pregnant with consequences which ever came under the consideration of that House—since unfortunately they must now in some shape be engaged in it, they would not sink themselves, but raise their characters, both as individuals and as a judicial assembly, by discharging their duties in such a manner as that they could stand acquitted in the face of the country at large. He trusted that they would exercise their judicial functions with all that caution, with all that regard to precedents, and with all that consideration of future consequences which they were bound to exercise, not only from a sense of duty to the illustrious individual accused, but from a sense of the consequences to the country at large. He should give his vote for the motion of his noble friend; if the secret committee still proceeded, he should abstain from attending, reserving to himself the power of acting as occasion might require.

The *Lord Chancellor* explained. In reply to the noble marquis, he could state that, in 1703, a message had been sent by queen Anne to both Houses of Parliament, on the discovery of a conspiracy to restore the Stuart family. That House had then examined all the papers, with a view to the best steps that could be taken. There was a great distinction between the legislative and judicial powers of that House. In 1720, the Commons had taken steps respecting transactions connected with the South Sea company, and the repayment of money advanced in that speculation. The Lords also had passed a bill of pains and disqualifications, but the Lords had originated that proceeding. The distinction between the legislative and judicial functions of that House was often very nice; but that House could do many things in originating such a proceeding which they could not do in its progress.

The Earl of *Donoughmore* said, that he certainly could not agree with his noble friend as to the propriety of withdrawing himself from the committee. It was with great regret that he differed from his noble friends upon this occasion, but he had not arrived at his present conclusions without duly considering the subject, examining it in all its bearings, and looking to all its possible results. He thought no reasonable man could object to the conduct of his majesty's ministers upon this occasion. They had not lost a moment in bringing the subject before the consideration of parliament, and the House had lost no time in taking up the royal charge, and appointing a secret committee for its investigation. He thought it right to pay a decent respect to the persons who had brought forward

the accusation; he had voted for adjournment after adjournment, and if a further adjournment had been proposed by his majesty's ministers, he should still have voted for it. It had been said that his majesty's ministers were weak men; that they had not sufficient confidence in themselves; and that they had taken counsel of both Houses of Parliament. Now, in his opinion, this was not a fair ground of accusation, and he thought it would be much better for the country if they would oftener take the advice of parliament. Not a single argument had been employed with a view of influencing the proceedings of this House, except what was founded upon the proceedings and speeches of the other House of Parliament. He deprecated the idea of this House being bound by the proceedings of any other assembly, and he thought all the difficulties and embarrassments with which the present question was involved, were attributable to a want of attention on the part of the members of the other House. He would put the case of a person, who had once distinguished himself as an advocate for another, and who had shown great dexterity in her cause, being suddenly seized with some strange wandering, some unaccountable forgetfulness, and being induced to make a glowing speech against the individual, for whom he had once exerted all his eloquence; the right hon. gentleman to whom he alluded had blended much of panegyric in that speech; he had talked of scenes,

" ———— Quæque ipse *dulcissima* vidi,
" Et quorum pars magna fui,"

[A laugh]. Yet it had been his own accusation, prepared by him in common with others, and therefore an accusation which he ought to have supported. He must take the freedom to say, that he did not look upon the present proceeding as a trial of the illustrious lady in question, or even as the commencement of a trial; it was only an inquiry whether there should be a trial or not. He still persevered in his original opinion, that such an inquiry would be most conveniently and most decently conducted by a secret committee; and the observations which had fallen from the learned lord upon the woolsack had convinced him, if he could before have entertained any doubt upon the subject, that such a measure was perfectly in conformity with the spirit and usage of parliamentary proceeding.

The Earl of *Lauderdale* said, it was with great regret that he felt himself compelled to differ with his noble friends upon this most important question. He could assure their lordships that he felt most anxious that the illustrious person accused should receive a fair trial; but he was anxious also that this House should do its duty to another illustrious person, who had felt it due to his dignity and honour to bring forward this accusation. He agreed with the opinion which had been stated to the House by the learned lord on the woolsack, as to the impossibility of proceeding in this case upon the statute of Edw. 3rd. If the illustrious personage were guilty of high treason, she could only be so in consequence of her participation in that offence, and because there were no accessaries in this offence. The maxim that "Accessorium sequitur naturam sui principalis," was in this case most immediately applicable. The queen had, he observed, sent counsel to the bar to ask that opportunity should be afforded to allow her to send for witnesses before any inquiry was instituted. But he would ask, how it was possible for her majesty, or her counsel to determine what witnesses it might be necessary for them to adduce, until it was known what charges were to be preferred? If witnesses were sent for before the result of the proposed inquiry were communicated to the queen's counsel, they might be subject to the inconvenience of collecting witnesses upon points or charges, which, according to that result, were not at all to be brought forward. Would any man then maintain, that it would be better for the object of the learned counsel to have the delay they required granted now by the House, rather than after the report of the secret committee should be made known to them? It appeared to him, indeed, that it would have been wiser on the part of the queen to require that the report of the committee should be brought up before she was called upon to collect evidence for her defence against any charges which that report might recommend. Such an appeal, he could not help thinking much more advisable than that which had been made to the House. With respect to the motion of his noble friend, he felt himself called upon to vote against it. He had now, for about forty years, had the honour of a seat in that House, during which he had frequently been a member

of secret committees upon the subject of finance, and of the Bank for instance, and he was willing to confide in the conduct of the ministers who sat in that House, from what he had witnessed upon such occasions; for although these ministers had often expressed very strong opinions in the House in opposition to his own, upon questions referred to these committees, he had always found them in such committees ready to give every due consideration to any point brought forward. Looking, then, to past experience, he calculated upon similar coolness and impartiality of investigation upon the present occasion, and he should vote in favour of the proposition, for the sitting of the committee.

The Marquis of *Lansdowne*, in explanation, said, that in alluding to the postponement proposed in the House of Commons, he had never intended to propose or recommend a similar measure to their lordships. He did not intend to say, that secret committees ought not to be appointed in certain cases, but that the present was not one of those cases, since he was quite certain that the question could be disposed of without having recourse to a secret committee.

Lord *Belhaven* declared that he could not abstain from expressing his intention to vote for the motion, while he was not at all inclined to oppose inquiry upon this subject. On the contrary, indeed, he was an advocate for inquiry, but it was for such a public and open inquiry as was agreeable to those principles of British justice which he had always been taught to venerate, and not for any mode of inquiry which was inconsistent with those principles, and especially when the party accused so strongly objected to it. The queen, he could readily suppose, might see reasons for this objection, of the propriety of which the House was not competent to decide, and particularly from her knowledge of the machinations employed against her; and therefore, feeling it his duty to yield to her appeal, he would vote for the motion.

Lord *Bulkeley* regretted that on this occasion he was called upon to differ from those with whom he usually concurred; but from a reverence for those principles of British jurisprudence which, since he was a boy at school, he had been taught to hold sacred, he felt it his duty to vote for the motion. He could never, indeed, allow himself to assent to the violation of those principles, whatever might be the rank of the party accused; and therefore he should be equally tenacious in this instance, whether the accused were merely Mrs. Brunswick, or the queen of England [Hear, hear!]. The noble lord again declared, that he differed with pain from those with whom he generally agreed; but he was urged by a strong sense of duty to say, as he could not hesitate to do were it even his last word, that he deprecated the course which they proposed to pursue upon the present occasion.

Lord *Holland* said, that in giving his vote, as he intended, for the motion of his noble friend, he should make no promise as to what course he might ultimately think it proper to support. He had from the outset disapproved of the course which ministers had taken, from a conviction of the irregularity and inconvenience of their proceedings; and of that irregularity and inconvenience many of the ministers themselves had since become fully sensible. Nay, two of the noble lords who were appointed on the secret committee, had that night stated their intention not to attend that committee from an impression of its irregularity. The reasons stated by those noble lords were no doubt different, but their resolution was quite the same. Those noble lords, whom he was proud to call his friends, had, throughout life, rendered such services to the cause of justice and liberty, that no one was more ready to acknowledge those services than himself, and especially with respect to his noble and learned friend behind him (lord Erskine). He therefore regretted to differ from his noble and learned friend upon this subject on a former occasion. Since that occasion, however, his noble and learned friend had this night observed, that the case under consideration was materially altered, and therefore his opinion had undergone a change. The case, had, indeed, been altered, as appeared from the proceedings elsewhere. He would not refer to the conduct of the other House of Parliament, to which two noble lords on the other side had observed it would be irregular to advert, although each of those noble lords were themselves betrayed into that irregularity. But he would refer to that which was matter of public notoriety, namely, the negotiation which had taken place between two of the king's ministers and the legal advisers of the queen. Their

lordships were aware of the protocols that were published, and here he would ask *quid est* protocol, or was there no word in the English language to answer the purpose without importing this expression? The subject of those protocols had, however, materially altered this case, as well as certain resolutions, which were also matter of notoriety, and in the adoption of which, several of the ministers themselves had concurred. From these negotiations and resolutions, then, it was evident, that this question had been changed since its former discussion in that House, and principally too through the conduct of ministers themselves. But his noble friend (lord Lauderdale), and he was surprised to witness it, avowedly confined his confidence to those ministers who were members of that House. Upon their conduct, it seemed, his noble friend was disposed fully to rely in the proceedings meant to be investigated by the secret committee, from which the motion proposed to relieve the House. His noble friend had also become an advocate, in a great degree, for the institution of secret committees, but without stating the grounds of that advocacy very fairly. Against this system of secret committees, however, he (lord H.) could not hesitate to enter his protest, for although he had not long lived in this world, it was his mortifying fate to see the liberties of his country more than once subverted by the system of secret committees, preceded by accursed green bags [Hear, hear!]. He had, indeed, in one instance, seen the constitution suspended through such a proceeding, within the space of twenty-four hours, and when only seven members of that House were present to deliberate upon the measure. It had been said, that bills of pains and penalties might originate in that House; but this doctrine he utterly denied, and challenged its advocates to produce any precedent in its favour. He, indeed, was decidedly of opinion, that such measures should rather originate in the other House of Parliament, as they had usually or uniformly done. It could not be pretended, that since the Revolution any case had occurred at all analogous to the present. There was, no doubt, a case upon record which had some analogy, but to which it must seem somewhat ludicrous to allude —he meant the case of lord Clarendon, who was said to have been implicated in a great conspiracy. Upon this statement or suspicion, that learned man was specially requested to leave the country for sake of the public tranquillity. No money, however, was offered to the noble lord, nor was there any negotiation or protocol respecting him. Lord Clarendon, as it might naturally be supposed, did not like the proposition to abandon his country. In deference to authority, however, he was induced to leave it, and within three days after his departure, a bill of pains and penalties was preferred against him for flying from justice. But the present case was directly the reverse, as it was proposed to the illustrious personage under consideration, that if she would fly the country she would be rewarded for her flight by such a liberal grant of the public money as might enable her to maintain her station abroad. The proposition was however rejected, and thus we were in a different situation respecting her majesty from that which regarded lord Clarendon. Looking, then, to all the circumstances of her majesty's situation, he thought his noble friend must agree with him in thinking that a very strong ground of state necessity should be made out before their lordships could consistently institute an inquiry which, according to high authority, would inevitably prove derogatory from the dignity of the Crown, and injurious to the best interests of the empire [Hear, hear!]. But what degree of state necessity could be adduced or imagined for inquiry upon this occasion, merely because the queen thought proper to return to, or to remain upon English ground? Ministers had said that they would state this necessity before a secret committee. But was it consistent or customary to determine upon the sitting of such a committee before any such necessity was stated, or was it enough to tell the House that it should wait for a statement of the ground of that necessity until the secret committee brought up its report? It was inconsistent and unjust, he would maintain, to call upon any portion of their lordships to make out charges upon which they might afterwards be called to decide as judges. The learned lord on the woolsack had, no doubt, alleged that the green bag contained nothing that could justify impeachment, and this allegation the learned lord grounded upon the strange doctrine that nothing was impeachable that was not indictable at common law, in which doctrine his noble and learned friend behind

him had concurred. But notwithstanding the very high authority of both those noble and learned lords, he would ever maintain that such doctrine was contrary to the constitution of the country, particularly to the privileges of parliament. It was a proposition utterly untenable indeed that the rules of the lower courts could fetter the discretion of parliament, or that no public officer could be impeached unless he committed such an offence as was cognizable at common law. The *lex consuetudo parliamenti* was no doubt a part of the common law, but he never could subscribe to the doctrine that indictable and impeachable offences were convertible terms. The establishment of such a doctrine, indeed, would serve to exempt ministers from all efficient responsibility, unless for offences of the utmost magnitude known to the law. If their lordships valued those constitutional doctrines, on which, in the best times, the dearest interests of the people were supposed to depend, they would allow no authority from the woolsack, nor from the benches of that House, to poison their minds against an old and sound constitutional doctrine, for the purpose of receiving another which would render the ministers of this country completely irresponsible characters. Suppose an ambitious, factious, weak, or injudicious minister to involve this country unnecessarily in war—to bring on this empire the greatest of possible calamities—would not his conduct be liable to punishment? Certainly it would. But that punishment could not be awarded in a common court of law; an indictment could not be there preferred against him. He was, however, accountable to parliament. If, with respect to this illustrious personage, the first subject in the country (and he wished it had been generally recollected that she was the first subject in the country), the queen-consort, placed in a high office—if, in her case, ministers conducted themselves so as to create a great evil, they were, he maintained, accountable to parliament for it. This, he was sure, was the doctrine of lord Somers, and of all the great men who had been distinguished as parliamentary lawyers. He therefore thought, when ministers were laying a bag of accusations on the table, that they should have recognized this principle, and made no allusion to the common law. If a contrary doctrine were held, it would be subversive of the most important functions of parliament. With respect to proceeding by impeachment, it had been resorted to but twice for several years. "Impeachment," as had been observed by a great lawyer, "is a Goliah's sword, and can only be removed from the temple on great occasions." It was a weapon which only applied under circumstances in which no other course of proceeding could apply: so far were "indictable" and "impeachable," from being convertible terms. The question under consideration was briefly this, whether the method of proceeding by a secret committee, was the proper course that should be pursued on this occasion? No individual had argued that the decision of a secret committee might not be necessary, might not be useful, under peculiar circumstances. All that had been said on that side of the House was, that it was neither proper, just, nor necessary, on the present occasion. He, and his noble friends were of opinion, that employing a secret committee, where it was not absolutely necessary, was an extremely unwholesome practice; not because it was of necessity an unjust proceeding, but because it was one out of which so many monstrous acts had arisen, that it could not give satisfaction to the public mind. With respect to precedents in favour of such a course, he could see no precedents in the case. The noble earl had adduced instances of secret committees having been appointed in this and the other House on great public questions, when messages had been sent down by the king; but he did not state any instance where a message was sent by the Crown relative to the conduct of an individual. "O," said the noble lord, "a similar course has been proposed by ministers in the House of Commons." There, however, they must be considered in the light of accusers—they had only one character to appear in—they might proceed to the end with unstained honour. But it was a very different thing, with reference to their lordships, who would be called on to judge a party at the bar on whose case they had previously formed an opinion. There was not only no precedent, but he would go farther, and say, the analogies were all against the noble earl. If they looked back to bishop Atterbury's case, the Crown, on that occasion, had seen a number of papers, belonging to a Mr. Layer; and, having looked at these papers, the advisers of the

Crown thought they saw in them the proofs of a very extensive conspiracy, with which bishop Atterbury was connected. The Crown deemed it necessary to address both Houses of Parliament on the subject. The address stated, that there were good grounds to believe that an extensive conspiracy existed, and called on parliament to take into consideration what proceeding it would be proper to adopt. Did ministers call for bishop Atterbury at that time? No. Did they send bags down to both Houses of Parliament? No. They sent a sealed bag, containing papers, to the House of Commons. The papers were examined, and the House, for some reason or other, did not think it necessary to come to any resolution with respect to those papers. They deemed it better to legislate; and a bill of pains and penalties was introduced. It was immediately passed, and along with the sealed bag sent to the House of Lords.—Notwithstanding all that had been said to induce them to agree to this committee, he would call on their lordships not to adopt that course. He wished to know did the people on this occasion, look silently at the proposed measure? He did not wish to enter into the general measures of administration, but he could not help smiling when the noble earl so triumphantly appealed to the period during which the counsels of himself and his collegues had prevailed. If the noble lord was so highly delighted with his own handiworks, with the general state of the country, with the present situation of its agriculture and its commerce, he was glad to find that his mind was so easily satisfied. *Si est ea gloria floreat.*" It was a species of glory in which he did not wish to participate. The noble earl had stated what, in his opinion, would have been the consequence if the counsels recommended by his noble friend (earl Grey) had been adopted. It was, he conceived, paying no very great compliment to the noble earl, nor was it very consolatory to the country, when he said that, had the advice in question been acted on, the results would not have been worse than those which had taken place. With respect to the question immediately before them, he must observe that the rules which regulated a court of law, or those which directed a court of impeachment, ought never to be departed from through a feeling of favour, although they might be new modelled to suit the justice and convenience of a particular time. If this were so, he contended, that the opinion of the public ought to be looked to, with respect to the method of proceeding. He would say even more—that the feelings of those connected with this case should not be overlooked. He knew nothing at all of the merits of the case; though he knew her majesty by sight, he was not personally acquainted with her; but as to the particular charges, he had no sort of information on the subject; he would, however, not speak of treating her majesty as an illustrious personage; he would look to her case as to the case of any accused person who was supposed to have committed an offence, and he would demand for her the same measure of justice. Could they on such an occasion adopt an anomalous proceeding, as he had shown that this would be? If any one part of the proceeding was not necessary, and if that part were considered by her majesty to be offensive, he conceived that that alone would be a good reason for changing the measure. He contended that to proceed by a secret committee, would be to prejudge the case on *ex-parte* evidence, although they had been gravely told that it would not have that effect. But, not long ago, a motion was made for an inquiry into the conduct of the Manchester magistrates. Ministers then said that an inquiry of that kind would be such a prejudging of the question as they never could consent to. In the present case, however, they thought differently, and they talked of the great impartiality which they had displayed throughout the business. When the motion he alluded to was made, ministers said, "We understand what you mean when you move for this inquiry: it is equivalent to a vote of censure. If it were agreed to, who would act in the capacity of a magistrate?" But now, it was not only just, but it was a most merciful proceeding, to institute a secret investigation. An inquiry into the conduct of the queen, was, it appeared, merciful: but to examine the proceedings of a number of magistrates would be degrading and insulting in the highest degree! He could not conceive how it was possible that the committee could finish this business in a few days, or a few weeks. Persons had been coming over who had been employed in collecting all those details for a year: a commission had been sent out; a report had been made by that commission, which had, of course, been

seen by his majesty's ministers. They had not stopped here; they had stated all they knew to the greatest law authorities in the kingdom, who considered the alleged crime in all its bearings. After this paraphernalia of preparation had been resorted to, ministers came down to the House and said, "We will not state what we intend to do, but will leave the matter to the opinion of a secret committee." He would say, with reference to that committee, that if it had not been called for, they would not now have been placed in the state of embarrassment in which they stood. What that committee could now do, which might not have been effected a year before, he could not say. He was sorry to see on that committee the metropolitan of England, who of course had sanctioned the striking out of her majesty's name from the Liturgy, as one of his majesty's advisers. In opposing the motion for a committee, could it be supposed that independent peers in that House were actuated by any ill feeling towards ministers? Did they not know that the feeling of the people out of doors was universally opposed to such a proceeding? No precedent, nor even any analogy, could be produced to support the motion. If the committee expressed a strong opinion, or was looked upon as a high authority upon the subject, it was then liable to all those objections which he had before stated, because it tended to prevent the impartial administration of justice. If on the contrary, it merely pointed out what course the House should pursue, where was the necessity for appointing it? Could not his majesty's advisers, as they had often done before, point out the line of conduct which it was deemed necessary to adopt? But, said the learned lord, there should be previous inquiry in all parliamentary proceedings. From this doctrine he wholly dissented. The principle of the constitution was precisely and extravagantly the reverse. The only proceeding in the other House of Parliament that one man could move against another was an impeachment. Any member might start up, without any previous inquiry, and lay articles of impeachment on the table. There they must lie for a fortnight without even being seconded, and yet they were told that no criminatory proceeding could take place in parliament without previous inquiry. Where was the previous inquiry in lord Clarendon's case? Where was the previous inquiry in the case of a noble friend (lord Ellenborough), now no more, for whom he had always entertained a most sincere regard? In this latter instance, the sense of the House was decidedly against the impeachment; and yet all the wisdom of parliament could not remove the articles from the table for a fortnight. The noble lord again shortly adverted to the words used in the resolutions of the House of Commons, which, he contended, stated most plainly, that by proceeding in this course they were derogating from the dignity of the Crown, and injuring the best interests of the country. For his own part, he looked upon the proceeding by committee to be unconstitutional, unnecessary, odious, and unseemly. Their lordships had, on a former occasion, when it was discovered that bills of indictment were sometimes found without full evidence, passed an act to prevent the recurrence of such a practice. Then their lordships showed, that accusations should not rest upon light grounds. They should be supported, in a case like the present, either by the correspondence of the individuals implicated, by parole evidence, or by evidence given before a competent authority in this country. But much that was contained in this bag must, from the very nature of things, be the depositions of unknown persons. Such evidence was not fit to be laid before a secret committee, because the members of it could have no opportunity of deciding on its veracity. There never was a subject that so completely agitated the feelings of the people of this country, from one end of it to the other, and therefore it should be handled with extreme caution; and he implored the House to consider well the dangerous consequences that might result from taking a false step unnecessarily, if not unjustly. In another point of view, he could not help calling on them to proceed with the utmost circumspection. He alluded to the effect which their conduct would produce throughout the country. If they proceeded rashly, people would be apt to say that the House of Commons had acted with spirit, that it was a mettlesome steed, which ministers could not manage, and that therefore they were obliged to go back to their old pack-horse—the House of Lords. This perhaps would be said, not in consequence of the substance of what they did, but with reference to the form and mode in which they had proceeded. On all these

grounds he would vote for the motion of his noble friend.

The Archbishop of *Canterbury* said, after what had been stated by two noble lords in the course of the debate, it was necessary that he should declare his feelings on this occasion. The noble mover, who adverted to the list of those appointed to go into this inquiry, objected to the name of the archbishop of Canterbury, because, as the noble lord stated, he was the responsible adviser of the Crown with respect to the alteration of the Liturgy; and another noble lord was of opinion that the archbishop of Canterbury was the constitutional adviser of the Crown on that point. Now, he believed that neither of the noble lords was correct on this question. If they were correct, they would have the goodness to show where their authority lay. Was it in the act of parliament? The only act he was acquainted with on the subject was the act of uniformity. Was their authority to be found there? He must conclude that unless they pointed out the ground on which their statement rested, it was a gratuitous assertion. He would tell the noble lords that he was willing to relinquish his station on the committee in question, if the noble lords could point out such grounds as would be satisfactory to the House, and which would not impeach his integrity as a public or a private man.

Lord *Holland* explained, that nothing was farther from his intention than to impeach the integrity of the right reverend prelate. But as that right reverend prelate conveyed the acts of the king as head of the church to the clergy of England, and as there was no act done by the king in that or any other character, for which there was not some ostensible and responsible adviser, he considered the right reverend prelate as responsible for the alteration in the Liturgy.

The Earl of *Liverpool* said, the alteration of the Liturgy was the act of the king's confidential servants who had advised it, and who were prepared to justify its legality and its expediency. The act was done in council, and the lords of the council who were present were perhaps strictly responsible; but in the practice since the Revolution, the acts done in council were preceded by advice on the part of the king's confidential servants, who were thus the peculiar objects of responsibility. The archbishop merely acted ministerially, and was obliged to execute the orders in council.

Lord *Dacre* disclaimed the slightest intention personally to offend the right reverend prelate. In bringing forward the petition of her majesty, he had observed that some of the noble lords who formed the secret committee, had in some way or other already formed an opinion. That the ministers who had laid the bag on the table must have formed an opinion was not denied; but it was doubted whether the right reverend prelate was pledged on the subject, or whether he was the responsible adviser of the omission of the queen's name in the Liturgy. The noble lords on the other side might assume the responsibility, but they could not divest the person who was legally responsible of that character. If the archbishop submitted the alteration to the king, and returned to the council and declared the king's will, he was the king's adviser; and though not removable, was impeachable for bad advice.

The Earl of *Liverpool* again explained. The alteration of the Liturgy was made by the declaration of the king in council. It might be a question whether all the lords present at the council were not strictly responsible, but as in reality the declaration was made in all cases by the advice of the committee of the council, generally called the cabinet, they were the persons on whom parliament would fix the responsibility. As for the right reverend prelate, he, in communicating the order to his clergy, had no discretion left him.

Earl *Grey* said, the right reverend prelate, in communicating the order in council to his clergy, acted ministerially, and might not be for that act responsible. But in signing it as a privy councillor, he unquestionably made himself responsible; for the parliamentary power of impeachment was held not only to check pernicious advisers, but to deter any persons from executing illegal commands. Though, therefore, the cabinet ministers were the persons more peculiarly responsible, yet no one who had lent himself to the execution by his signature could be exempt from responsibility. In some cases, indeed, it was necessary to address the Crown to learn who were its advisers, as in the case of a negative given to bills, for then no signature appeared; but to acts of the council there were the signatures of the councillors ["Not always," from lord Liverpool, "not in this case"], at least there was an entry in the council books of the lords present.

The Earl of *Darnley* said, he did not rise to make any remarks, but to state, that as the advice of the ministers to omit the name of the queen from the Liturgy was the cause of the present embarrassment of parliament, if no other lord, better qualified to do it justice, took up the subject, he should call the attention of the House specially to it.

The House divided: Contents, 47; Not-Contents, 102; Majority against the motion, 55.

List of the Minority.

Duke of	Somerset		Minto
	Grafton		Blesinton
	Devonshire	Viscount	Anson
	Hamilton		Bulkeley
	Argyll		Hood
Marq. of	Lansdowne		Downe
	Downshire	Lord	De Clifford
Earl of	Essex		Dacre
	Jersey		Saye and Sele
	Breadalbane		Belhaven
	Roseberry		King
	Cowper		Holland
	Stanhope		Ducie
	Hardwicke		Foley
	Darlington		Gage
	Ilchester		Auckland
Earl	Spencer		Yarborough
	Grosvenor		Calthorpe
	Fortescue		Carrington
	Carnarvon		Lilford
	Darnley		Alvanley
	Rosslyn		Erskine
	Romney		Crewe
	Grey		

HOUSE OF COMMONS.

Wednesday, June 28.

EDUCATION OF THE POOR.] Mr. *Brougham* rose. He said, he returned his best thanks for the candour and the kindness of both the hon. gentlemen, in allowing him the precedence; and now, without any further preface, he would at once enter upon the subject he wished to bring before the House. After a very long period of time employed upon its consideration, he had at length determined to bring forward a motion, which in his estimation, was second to none in its magnitude or its importance. Parliament had been for some time, indeed, occupied upon what might be vulgarly considered a topic of more importance, a question to which the most intense attention of the nation had been directed; but by the production of the plan which he was about to submit to parliament, he trusted, that he should put it in the power of the House to do a benefit to mankind which would exist and be widely felt, long after that question should have been determined, and long after the differences which existed between the individuals (illustrious as they were) who were more immediately connected with it, should have been forgotten. He well knew that this was a very unfortunate moment for bringing forward a question proceeding upon such abstract principles as the present one; and he could only hope that the House would assist him, by its candour and attention, in listening, with as little interruption as possible to the developement and elucidation of those principles, which became, for that very reason the more indispensable. Without meaning for one moment, or in the slightest degree, to convey any thing like a sneer or a sarcasm, he would beg leave to say, that if any hon. gentleman should feel that the subject before the House was one which possessed not sufficient interest to command his attention, it would be better that he should remove to scenes more capable of exciting that interest within him. It was now more than two years since those proceedings, the result of which it was now his duty to bring before them were commenced. They had been, since pursued with various success, but with equal industry, perseverance, and zeal upon the part of the gentlemen who were engaged in them. Their inquiries and exertions had produced a mass of statistical information, which, for its importance and its kind, was equally unprecedented; for, instead of possessing the dry, abstract, and uninteresting character of statistics (and they who were versed in that science would know that such, generally speaking, was their nature), instead of mere numerical details and elaborate calculations, those inquiries had produced a vast body of moral information, which, the more it was studied and examined, would be found to be the more important and valuable.

Before he proceeded further, he felt it his duty to return his most cordial thanks to those reverend gentlemen, without whose assistance they could not have advanced a single step towards that point of their labours at which they had arrived—he meant the whole of the clergy of the established church. It was, however, quite impossible that any

words of his could do justice to the zeal, the honesty, and the ability with which they had lent their assistance towards the attainment of the great object which had been proposed as the result of the inquiries. Those reverend persons had been actuated by no angry feeling, and had manifested no degree of impatience, when, from the circumstances of the nature of the information which was required, and the length at which it was to be detailed, their readiness to undertake what they might have considered a work of unnecessary labour was a thing hardly in reason to be expected from them. He candidly confessed that he felt it incumbent upon him to enter a little more into the statement which he thought it necessary to make upon this part of the subject, in justice to the important services of the reverend individuals in question. This was a measure the great burden of which must of course be thrown upon the ministers of the established church. It might be proper, therefore, rather to show, first of all, what were the claims of those clergymen to the confidence which this bill reposed in them; and that he could not do in any way so well as in stating merely what it was which they had done. The first work of the committee had been to address a circular to the whole of the clergy of England and Wales; the object of which was to call their attention to a variety of matters connected with the present subject. The clergy set about returning answers to these circulars; and as a proof with what alacrity they had exerted themselves in obedience to the wishes of the House, as signified through the committee, he need only mention, that, a day or two after, he had received no less than 600 returns, all in one day; and, two days after that, as many as 2,600; and that within one week, about one-third of the whole clergy had obeyed the wishes of the House, —that was, all those who were sufficiently near the capital to make their returns in such a space of time. After a little while the committee received nearly all the remainder; but, in a correspondence maintained with so large a number of persons as 11,400, there were, as might be expected, some defaulters; and they amounted to 600. To these another circular was addressed; whereupon, as universally happened in such cases, their number was soon greatly reduced; and about 200 ministers only were still defaulters. He had next to mention a circumstance, of which he would only say beforehand, that there was no blame to be attributed to the clerks at the post office, nor to any of those channels of transmission whose extraordinary fidelity, accuracy, and dispatch, he most willingly acknowledged; nor to any party more immediately engaged in conducting or aiding in the inquiries; nor indeed to himself. By some accident, however, there were 360 returns that were mislaid after the dissolution of parliament; they were put into a box, for the purpose of being taken care of, and could not afterwards be found, as he should have occasion subsequently to explain. Another circular was in consequence addressed to the clergymen who had furnished these returns. Now, it did so happen, that these 360 returns had been picked out of the whole 11,400, as being the most elaborate, and the most ample of them all. They had been so selected, as pattern cards, if he might use the term, of the rest. Owing to the misconception occasioned by this unfortunate accident, however, a letter was sent to those gentlemen, couched in terms which pretty smartly imputed to them neglect and delay. Those very returns were a second time called for from reverend gentlemen who were thus chid, owing to a mistake arising out of an accident, (for which, he repeated, he was not aware that any one was to blame); which accident, again, arose out of the very fact of their superior industry, skill, and attention, as testified in the returns. Any one might have supposed that, after this, those ministers would have felt themselves hurt and aggrieved; and he should not have been surprised, for one, if they had answered publicly, and said, that it was really too hard that they should be again called upon to make out returns which they had before sent up, after infinite pains and some labour; for many of them extended to the length of ten pages and upwards. But would the House believe—and he protested that it did appear to him a most unexampled and incomparable instance of a very honourable and meritorious feeling—that so great and so zealous was their good-will to a most important national object, and such the truly Christian meekness and benevolence, which they evinced, that out of those 360 clergymen no more

than two murmured at the fresh trouble that was imposed upon them; and even those two transmitted the required returns, together with their remonstrances? Some of those gentlemen had fortunately kept copies of the statements which they originally sent to the committee; but others had not done so, and were under the necessity of making out fresh returns. He knew that, in making this allusion to the accident out of which the renewed applications in question originated, he ran the risk of incurring some blame; but he was content rather that blame should be imputed to him, than that he should fail to do justice to a body of men who had so handsomely and so liberally exerted themselves to remedy the loss of their own labours. The same reverend gentlemen had since answered even private letters connected with this subject, and letters written under no parliamentary authority whatever. He had himself sent private letters again and again to them, always, of course, making his most humble apologies for the trespass committed on their leisure. Another proof of the good-will to the cause which he was embarked in was this—that if any one would look through the digest, he would find that in many cases a foundation was supported entirely by the charity and exertions of the incumbent himself. When he said this, he spoke of the working parish priests, of those meritorious individuals who, to their great honour, devoted to this laudable purpose a portion of their money and their time. He did not speak of the more dignified prelate, who could not of course be expected to reside upon the one particular spot; nor of the pluralist, who could not, if he would, reside there; but he meant the working parish minister—the true and effective labourer in the vineyard. In making this remark, he meant no compliment to those reverend gentlemen. It was merely an act of justice towards them.

He had said thus much in order to make out his case for intrusting the clergymen of the establishment with the execution of the proposed plan rather than any other body of men in the kingdom. The result of the labours of the committee was, that a Digest was prepared and ready to be put into the hands of members, which would exhibit the clearest and most prompt information on every part of the subject, and the state of education in every quarter of the country; and there still remained for completion a separate volume containing supplementary statements, to which tables were prepared to be added to render the whole as complete as possible to show the state of education, exhibiting in one view, or rather in various points of view, the state of education in every county, parish, village, and even small hamlet, showing not only the actual state of education, but the defects which existed in each. It would therefore require but a few words, to explain to those gentlemen the nature of his motion, particularly its extension in a separate form to England and Wales.—There were also two keys printed; one was to the numerical tables of the Digest, and the other referred more particularly to the subject. The Digest itself consisted of an abstract of the informations obtained, and in some parts recapitulated the very words of those informations. His late lamented and hon. friend, the member for Bedford, in 1806, proposed a plan upon a similar subject, but of a very different nature; Mr. Perceval objected to it, not with reference to its principle, but because he thought previous inquiry necessary: he said, "Have a commission first, and then see whether, from the information to be derived under it, a new and better plan may not be the result." What Mr. Perceval recommended had now been done. The commission had made the necessary inquiries. The result showed the errors which had [illegible] existed. He held in his hand a calculation clearly proving how wide of the mark writers upon these subjects had been in former years, and how very ignorant they were of statistics. It was extracted from a book written in 1806, by Dr. Colquhoun—a man who had been always considered, both here and on the continent, of great authority upon matters connected with political economy. For himself, he would own that he had always been doubtful of the infallibility of such sweeping calculations as the doctor was accustomed to indulge in, nor could he ever reconcile to himself the absolute truth of a numerical calculation which went to ascertain, even to the fraction of a single woman of the town, how many were the females in London living by prostitution. Dr. Colquhoun was certainly a very lively writer, and in some respects entitled to credit,

but he was never more wide of the mark than when in an evil hour he undertook to calculate the number of children in the country whose parents were unable to provide education for them. His first statement was—that there were two millions of poor children in England and Wales, who were in want of education, and 50,000 in London alone. Now it did so happen that there were not two millions of poor children at any one time in existence in England and Wales, because the number of children of an age capable of education was reckoned at one-ninth part of the whole population of a country at any time. He (Mr. Brougham) estimated them at one-tenth, although he knew that his opinion was contrary to that of almost every foreign writer on these subjects. At this rate, however, the poor population of England and Wales ought to be 20 millions, and if the children of the rich were added in an equal proportion (and he should be sorry if every other man were a pauper), the whole population should be 40 millions. The next position of this author was, that there were 1,750,000 individuals in Great Britain and Ireland who grew up without education; and it was a position of which he would say, without troubling the House further on the subject, that it was equally absurd with the other. Here they had one calculation which omitted the children of the rich altogether, and another which made the number of poor children gr[illegible] in amount than the total number o[illegible] dren in the country. The doctor [illegible] on, however, to hazard another calcula-tion, which was yet more untenable; it was rather a proposition indeed; for he said, "let there be built a school in each parish, capable of containing 800 poor children." Now he (Mr. Brougham) had looked into this matter, and he found that there were only 50 parishes in the kingdom which did contain 800 such children; and that 700 parishes only contained even so many as 400 children. What was yet more was, that the average amount taken upon all the parishes of England and Wales was only 85 and not 800 children. So that, in fact, if Dr. Colquhoun had been talking about the empire of China, he could not have arrived at conclusions much more erroneous. It only served to show how surely and how fatally false deductions were derived from false premises.

There was one difficulty which had formerly stood in the way of such a plan as that he had now to submit, which no longer existed: it was one which had not in fact been often attempted to be urged against the progress of knowledge, even in a time of general ignorance—he meant the objection that education would prove a detriment to the poor. He purposely avoided using the term "lower orders," not from any deference to those who had so strenuously objected to it, and whose counsels and evil courses if they had been followed, would have made them low indeed. He knew not what rational objection there could be to the appellation. Sure he was, that the forefathers of those lower orders never found fault with it. That House (the House of Commons) was called the lower House of Parliament, but that term did not imply any degradation to the Commons; it was used as a term of distinction between that and the other House. So it was when the lower orders were mentioned; the term was used to distinguish them from those who were above them in the scale of society. God forbid that he should say any thing against the poorer classes of society, for what would the rich be without the poor? Where would the pyramid be without its base? To return to the question. It appeared that since the peace of Amiens, and in consequence of what had taken place at the French revolution, the education of the poorer classes was objected to by some persons in this country, on the ground that it would make a man a worse subject. This was, however, a modern idea. He could show, from historical authorities, that the education of the poor was by no means a novel object; but had been held in early ages, and by the wisest governments the best security for the morals, the subordination, and the peace of countries. In France, in the year 1582, under the reign of Henry 3rd, the states-general met, and the noblesse of the day presented a petition to the sovereign, praying that pains and penalties might be imposed upon those who would not send their children to school; and nearly at the same time the Scotch parliament (perhaps the most aristocratical body then in existence) passed a law that every gentleman should send at least his eldest son to school, in order to learn grammar. In the 16th century, an or-

der was made that all children should attend school, and that alms and charities should be refused to those persons whose children did not so attend. He had also seen a charter of king David 1st, dated in 1241, in which mention was made of various public schools in Roxburgh, now a small village. Another charter dated 1163, spoke of the schools of Stirling. Another in 1244, noticed the number of schools at Ayr; and a fourth, dated in 1256, made honourable mention of the praiseworthy manner in which the schools of other districts were conducted. Shortly before the revocation of the edict of Nantes, in 1680, the most intolerant period of French history, was founded the first society in the world, and, for a long time, the only one, for the advancement of education: its founder was the celebrated Père de la Salle, and the order was denominated "Les Frères des Ignorants," and their vow was the foundation of schools. That society had established numerous schools for the education of the poor. In 1724, which was also a most intolerant period, pope Benedict issued his celebrated bull, authorizing and encouraging the extensive establishment of places of education for the poor. In that bull the pope mentioned the example of the Père de la Salle, and expressed himself in the following words:—"Ex ignorantia omnium origine malorum, præsertim in illis qui egestate oppressi sunt, et qui elementa Christianæ religionis persæpe ignorant." A more accurate, a more scientific description of ignorance was never given, even by Voltaire, than that in this instance promulgated by the enemy of that great philosopher—by Benedict. He now turned to a different authority. From that of Père de la Salle and his Ignorantium brotherhood, from the advice of the pope, to whose bull he had alluded, he came to the evidence, in 1738, of the lieutenant of police at Paris; a man who was, perhaps, much more conversant than either with the effects of ignorance. That gentleman stated, that from the period of the establishment of the ignorantium schools in Paris, the expense of the police in the Fauxbourg St. Antoine was reduced 30,000 francs annually. This was the evidence, be it remembered, not of a theoretical, but of a practical man. About the same time a remarkable circumstance happened in this country. In 1714, Mandeville published his "Fable of the Bees," condemning the charity schools of that day, because he said the children learned nothing there but to lisp "High Church and Ormond;" and in nine years afterwards the grand jury of the county of Middlesex thought fit to present him as a fit object for prosecution, and he was accordingly prosecuted for endeavouring to prevent the advancement of education and religious instruction, for irreligion, for decrying the universities, and for reprobating the instruction of youth. Thus, strange as it might seem, an impious man and an atheist at that time was occupying the ground since mistakenly filled (though only for a moment) by the pious and religious, who in our own day, worked upon by the false philosophy and evil consequences of the French revolution, had endeavoured to discourage the progress of knowledge. Mandeville charged the educators of his time with instilling principles of disloyalty, and an antagonist of Mandeville's, in a letter to lord Carteret, replied "I defy you to prove this; but, enter into any of the schools, and if you at any time find disloyalty inculcated, let the schools be pulled down." Now this was precisely his argument. He had heard that schools had been established in Lancashire and Cheshire, inculcating unconstitutional doctrines, radical doctrines; why then his advice was, if there were such schools, let them be shut up. He next came to the letter or circular of the pope, through the cardinal Fontana, to the Irish prelates, in 1819. In that letter was pointed out the poison, which was inculcated into the minds of the people from allowing them to read unauthorized versions of the holy scripture. The right reverend father said, with true philosophy, "it is not enough to prevent such works; in order to prevent your flock from being badly educated, you must yourselves educate them well," This was undoubtedly the language which, as a pious man, and as head of the church to which he belonged, he ought to use. The pope went on to say, "in order to avoid the snares of the tempter" (and no man seemed to have a better knowledge of the use of schools; no man saw more fully the necessity of instructing the ignorant), "I beseech the holy brotherhood, through the bowels of Christ, to work day and night in the establishment of Catholic schools, in order

to prevent the dissemination of improper doctrines." Now this was exactly his argument. Let them, in order to prevent bad impressions, inculcate those which were sound, and this was only to be done by education. He was happy to have such high authority with him on this point. The whole of this branch of his argument might be summed up in the memorable words of the great lord Bacon—"Lucis enim naturam puram," &c.—that the light of knowledge was in itself pure and bright, however it might be perverted and polluted by wickedness or imperfect instruction; and that the channels by which it poured in upon the human species ought to be ever kept open and undefiled.

He now came to a new topic. It had been objected that he (Mr. Brougham) wished the poorer classes to be taught Greek and Latin and fluxions, and other knowledge which would draw them from the cultivation of the soil, and their various humble occupations. He really had no such wild project in his contemplation. He agreed with one of the wisest men that had ever lived, that to one of the rank to which he alluded, a knowledge of all the languages of the globe could not, in point of utility, be put in competition with an acquaintance with a single mechanical art. Milton, the most learned man of a learned age, endowed with many rare accomplishments of genius and of acquisition, in his small "Tractate of Education," had expressed himself in the following forcible and beautiful language:—"And though a linguist should pride himself to have all the tongues that Babel cleft the world into, yet if he had not studied the solid things in them, as well as the words and lexicons, he were nothing so much to be esteemed a learned man, as any yeoman or tradesman competently wise in his mother-dialect only."—Still however, he was persuaded that if a poor man had a little more education, it would be no bar to his industrious occupations. Without dwelling upon theoretical opinions, he would quote a practical authority of a remarkable nature, in a letter from Mr. Gilbert Burns, brother to the immortal poet of that name, who though a self-taught man, would pass down to posterity with the name of his country; a man who had by his songs rendered that country dearer to its natives, as must have been felt by all those belonging to that country, who had ever visited foreign countries. He would read an extract of a letter from the brother of that man to Dr. Currie, and it was the more worthy of attention as the hand that wrote it had, half an hour before, been probably engaged in directing the plough. Mr. Gilbert Burns in his letter, said, "I can say, from my own experience, that there is no sort of farm-labour inconsistent with the most refined and pleasurable state of the mind that I am acquainted with arising from a liberal education, thrashing alone excepted." He would here beg leave to observe, that the writer did not clothe his ideas in perhaps as fine or as roundabout a dress as would be used by some other gentlemen; he stated what arose in his mind clearly, but simply. He had, perhaps, been threshing shortly before, and had therefore felt the irksomeness of the employment. He went on to state, "That, indeed, I always considered an insupportable drudgery, and I think the ingenious mechanic who invented the thrashing machine ought to have a statue among the benefactors of his country in a corresponding niche with the first introducer and cultivator of potatoes. I maintain, moreover, that as the sort of dim religious awe is wearing off which used hitherto to guard the morals of the people in this part of the world, from a great variety of causes, men will go suddenly into an opposite extreme, if they be not so educated as to enable them to see the separation between the essence of true religion and the gross systems so often confounded with it." So much for his peasant. He came at once to the point; and he (Mr. Brougham) wished that many other persons whom he knew would do the same. He would now call the attention of the House to the result of the inquiries that had been made upon this subject. It appeared from those returns that there were now educated at unendowed schools 490,000 children, and to these were to be added about 11,000 for 150 parishes from which no returns had yet been made. In the endowed schools 165,432 children were educated; making a total (exclusive of the 11,000) of 655,432. In England it appeared that on the average 1-14th or 1-15th of the whole population was placed in the way of receiving education. The Breslaw tables, on which the calculations were made in France, included children between the ages of 7 and 13 years, and represented one-ninth as the proportion of the popu-

lation which required education. He had gone through the laborious task of checking those tables by the digests now before the House, which digests were made up from the actual statements of clergymen, from the personal knowledge of their own parishes; and the result was, that instead of one-ninth being the ratio of children requiring education, as compared with the whole mass of the population, he found that it was nearer one-tenth. Now in England the proportion of those actually receiving education was only one-fourteenth or one-fifteenth, so that there appeared to be a considerable deficiency. Another deduction ought also to be made for the dame-schools, where 53,000 were educated, or rather not educated, for it amounted to no education at all, since the children were generally sent too young, and taken away just when they were competent to learn. He admitted, notwithstanding, that these dame-shools were most useful, on account of the regularity and discipline they inculcated. The average means of mere education, therefore, was only in fact one-sixteenth in England; yet even this scanty means had only existed since the year 1803, when what were called the new schools, or those upon the systems of Dr. Bell, and Mr. Lancaster, were established. Those schools were in number 1,520, and they received about 200,000 children. Before 1803, then only the twenty-first part of the population was placed in the way of education, and at that date England might be justly looked on as the worst-educated country of Europe. What a different picture was afforded by Scotland! the education there was in the proportion of 1-9th or between 1-9th and 1-10th. Wales was even in a worse state than England: at the present day the proportion was 1-20th, and before 1803, it was 1-26th.

It might be useful that he should state the condition in this respect of three foreign countries, France, Switzerland, and Holland; and he was happy to be able to do so, not from books, but from the assistance and information which had been generously afforded him by distinguished foreigners; among them he might mention the baron de Stael, the duke de Broglie, M. Cuvier (who had supplied the information regarding Holland), and the chevalier Laborde, at the head of the department particularly connected with this subject in Paris. The proportion in France at this day was one-twenty-eighth, but even this had only been produced by very recent improvements. In 1819, only 1,070,000 children of the population received education, but that number was greater by 200,000 than in 1817. In 1817 only one-thirty-fifth part of the population of France received education. In truth France was at that period in almost as bad a state in that respect as Middlesex, which, though the great metropolitan country of England, was, beyond all dispute, the worst-educated part of Christendom. No sooner had the defect been discovered in France, than the inhabitants set about to reform it, and, from the zeal with which the subject was undertaken, no less than 7,120 new schools had been opened, and an addition of 204,000, or the children of two millions of the whole population, had since 1817 received education—an example well worthy of admiration and of imitation. If they went on in the same way for ten years, there would not be an uneducated child in France. Regarding the state of Switzerland he had received much valuable intelligence from his well-known friend, Mr. Dumont, in a letter written in a most beautiful hand, by his servant, who was from the Pays-de-Vaud, and had never received a single lesson but in one of the parish-schools. From this and other sources he found that in Switzerland there was twelve times as much education as in England, the proportion was about one in eight, and there was not above one person in sixty who could not read and write. In 1812, in Holland, according to M. Cuvier, there were 4,451 schools, educating 190,000 children, or one-tenth of the population.

Such were the general averages by which he thought it fit to preface his plan; and he would now take another, and not an uninteresting, view of the subject. He would state, in the first place, what was the amount of population in England wholly destitute of the means of education. He would take 600,000, as before as the number educated in endowed and unendowed schools, deducting the number placed in dame schools. To these he would add 50,000 for the children educated at home by private tuition; also 100,000 for such as were educated, at Sunday schools. The latter received, indeed, in this way, a very small modicum of education; and, above all, they obtained none of the useful habits inculcated by the discipline of schools under the

eye of a master, which was more beneficial to the child than that of a parent. The total therefore of the children receiving education was 750,000; according to which calculation no less than 2,000,000 of the population of England was left in this respect unprovided for; in other words, every fifth person was without the means of education; so that the condition of Switzerland was twelve times better than our own. The last view he should take of this subject was founded upon a comparison of the number of parishes and ecclesiastical districts which had, and had not schools. There were about 12,000 ecclesiastical district parishes, or chapelries, in England; of these 3,500 had not the vestige of a school, endowed, unendowed, or dame; they had no more means of education than were to be found in the country of the Hottentots. Of the remainder, 3,000 had endowed schools, and the rest relied entirely on unendowed schools—of course fleeting and casual. In Scotland it was known that every parish, great or small, had one or more schools; some of them endowed, upon which were formed the bulk of those where the majority of the population was educated. Were he not afraid of fatiguing the House, he could show, as in a map, how education was spread over the country. The average of the whole of England being one-fifteenth, in Middlesex, it was only one-twenty-fourth, and if the dame schools were deducted, it would be only one-forty-sixth; and excluding this county from the calculation would lower the average of England to an eighteenth. Thus it was evident that Middlesex was three times worse educated than all the rest of England. Lancashire was next in the scale, where it was one-twenty-fourth, or very nearly half as bad again as the rest of England. In the four northern counties taken together, the average was one-tenth of the population; but in Westmorland singly, he was happy to say, that it amounted to one-seventh. It was far from his wish to state any thing disrespectful of other counties, but it was his duty on this occasion to observe, that the proportion was extremely different in many districts. In the six midland counties, Buckinghamshire, Bedfordshire, Cambridgeshire, Northamptonshire, Hertfordshire, and Huntingdonshire, where lace-making was the ordinary occupation, and the great enemy both to education and morals, the average was one-twenty-fourth. A great deduction from the dame schools was to be made as respected these counties, in consequence of that occupation. In the eastern counties, Essex, Norfolk, and Suffolk, the proportion was one in twenty-one, and in Somerset and Wilts one in twenty-four. He had no desire to build any argument upon the connexion between education and the amount of poverty and criminality, without reference to all the circumstances and disturbing forces which formed such an essential ingredient in a calculation. Amongst these must be reckoned a vicinity to sea-port towns, the comparative density of population, and manufacturing habits. Making allowance for these obstructions, the result would still answer as a practical exemplification of his theory. The average of the poor of all England was one-twelfth, exclusively of the northern counties, where the average was about one-fifteenth. In Westmoreland and Cumberland, the counties in which the population was twice as well educated as in any other part of the country, the proportion of poor was but one half of what it was elsewhere. He held in his hand a table of the number of commitments, with reference to the population of each county, for the last ten years. That number, estimated for all England, was in the proportion of one in 1,400, but in the northern counties was one in 4,200, and in the midland counties one in 2,100. In Westmoreland the numbers committed for crimes varied but little for the last twenty years, and this was matter of little surprise; they were not to expect miracles from education—education enlightened the people—it did not immediately remove them from crime.—They must mix with their fellows—they must wait for the gradual improvement which time brought about but if, notwithstanding the disturbances of late years, if the number of committals did not increase, he thought he might rely on the fact as affording a proof of the salutary and permanent effects of education. It was surprising to find how the proportion of those who received education without paying for it varied in different districts. In the four northern counties the number of children educated free were 16,300; those who paid were 37,000. In Westmoreland, out of 2,700, only 48 were educated free. In the six midland counties 18,000 paid, 20,000 were free. In Wilts and Somerset 11,000 paid, 16,000

were free. In the three eastern counties 24,000 paid, 30,000 were free. Now in Scotland, which was again pre-eminent in this instance, although all the children were educated, there was scarcely one whose parent or friend did not pay something for it. In Scotland there was hardly such a thing as gratuitous education. If in drawing up the returns for that part of the king's dominions, the paper of two columns had been sent under the heads of "Paid" and "Unpaid Schools," the return to the "paid" would be *nil.*—Even the peasants took care to provide means for this purpose; and we in this part of the empire might well envy Scotland the possession of such a peasantry. We might also be assured that there was no way of getting rid of the poor-laws, and of their increasing evil, except by a restoration of those wholesome and independent feelings which England once had, which Scotland still had, but which she would not long continue to have, if the poor-laws were extended to that country.

He might here point the attention of the House to a digest of the reports of the Scotch clergy on this subject, as one of the most admirable and affecting documents which had ever been submitted to their consideration. In that might be taken a correct view of the character of the people; in that might be found manifested, in a thousand ways, the zeal and earnestness of parents in procuring instruction for their children. The children of the poorer classes worked half their time, and their earnings constituted a fund, not, as in other places that should be nameless, where the sweat of their brow was imposed to support the dissipation, or gratify the impure desires of their parents; not to be wasted in drunkenness and debauchery; but to be carefully reserved as the means of obtaining education. Scotland was not a land where many visionaries or speculators were to be found. Metaphysically as some of its inhabitants were inclined, they had an utter contempt for every thing that did not promote their own real and substantial advantage. It was for this he praised them. His praise of the Scotch was, that they knew and followed what was their real advantage, and that they did not see the advantages of vice and ignorance. Their youth were not brought up in vice or idleness, but in persevering and industrious habits. The clergymen said, that the poor people who could not afford to keep their children all the year at school, kept them at work for the summer, and with the amount of their wages, which seldom amounted to more than 20 shillings, they sent them to school in the winter, at that invaluable period of life when mind, as the Roman poet said, "might be fashioned like wet clay." In Scotland there were parishes fifteen miles in length, and six in breadth. It was easier for an adult to go to church than for a child to go to school in such cases. But what was the expedient suggested by their zeal and ingenuity? The schoolmaster was taken into houses successively, and was boarded in remuneration for his trouble in teaching the children. Scotland was not remarkable for abundance of animal food, but the parents gave him some kind of subsistence, probably better suited to their means than to his appetite. There was a curious similarity in this respect between that part of the kingdom and the south of France. It was observed, in a report of the French commissioners, that "happy was the schoolmaster who lived in the rugged districts of the Pyrennees; there he was at least sure of not dying of hunger, for the people having no money, boarded him by rotation." Such was exactly the state in the Highlands, in what he would call the Pyrenean parts of Scotland. He would join these poor people in preferring the humble and pious prayer of their clergy for the love of God to grant them more widely the means of education; for the love of that religion which their Divine Master said was preached for the rich as well as the poor, he implored parliament not to be stingy on this branch alone of their internal administration, and not to limit to an annuity of 10*l.* the stipend of the teacher who was to assist in this good work.—It was probable that if they did, some persons would be found to contrast their ill-starred economy on this point with their profusion upon other projects. The money which had been thrown away on the Caledonian canal would have educated half of England, and the whole of Scotland.

He had now no further statements to offer to the House, and would therefore proceed to lay before them, as shortly as he could, the principal heads of that plan which he felt himself justified in recommending. If this plan had been struck out in a heat, if it was the offspring of

mere theory, a creation of fancy, or the adaptation of a system established elsewhere to the state of this country, as, *mutatis mutandis*, an act of William had endeavoured to extend the parochial system of England to Scotland, criticism and opposition might well be expected. But he entreated every honourable member to believe, when any objection presented itself to his mind, that it had previously occurred to the committee, had been well weighed and fully considered, both by himself and the hon. members whose assistance he had enjoyed. Had it been otherwise, indeed, the plan could neither be rational, practicable, nor feasible. He was sure that the length of time which had been employed in the considerations and inquiries of the committee evinced their sense of the importance and difficulty of the task which they had undertaken. There was no part of the plan that was not warranted by the information which had been laid before the committee. Queries had been propounded upon every leading branch of the inquiry—witnesses had been examined on every material point, and the benefits of their united wisdom and experience brought in aid of the deliberations of the committee. The plan in question was divided into four branches, and referred in the first place, as might be supposed, to the foundation of schools. In the second place, it related to the appointment and removal of masters; in the third, to the admission of scholars, and their mode of tuition; and in the fourth, to the improvement of old education endowments. The first thing naturally to be considered was, how to plant the school; the second, how to procure a proper schoolmaster; the third, what he was to teach when procured; and the fourth, how to relieve the country of part of the expense necessarily attendant upon the plan, by making the old endowments in some measure available. He proposed to rest the authority of initiating proceedings in four different classes of persons, and that the tribunal for determining and adjudicating on the subject should be the quarter-sessions. The ecclesiastical division of districts was that which he had adopted, and the first class of persons to whom he had alluded was the grand jury at the Easter sessions, to proceed either by finding a bill of indictment, or presentment of their own. Upon this, he submitted, that the case ought to be triable in the following sessions. The matter of complaint should be either that there was no school within the district, or none in the adjoining districts sufficiently near to be available to the inhabitants of that district, or that there was only one school where two were necessary, or three, in the case of very extensive or populous districts. Beyond this he did not go; it was right some limit should be set, and when there were three schools in a parish a great deal would have been done. Evidence might then be heard, and the question determined at a special or school sessions; no *certiorari* or writ of error being allowed. The second class of persons entitled to apply was, the rector, vicar, perpetual curate, or actual incumbent of each parish, with a power of uniting two parishes or chapelries together, and making the application jointly. In the third place, his plan would enable any two justices acting for a division in an ecclesiastical district to prefer similar complaints; and, in the fourth and last instance, would confer a like discretion on any five resident householders. Notice was to be given and affixed to the church-door in such cases, for the period of a month before the first day of quarter-sessions; two chapelries or parishes might join in the application, four householders of each parish or chapelry concurring; the parish officers were obliged to defend, at the request of five householders; an estimate of the expense of the school-house and garden was to be furnished; the education digest and population abstract were to be given in evidence, but liable to be rebutted; costs of the application were to be allowed; no appeal or *certiorari* was to be allowed; the salary of the schoolmaster should not be less than 20 or more than 30*l.*—This last point he was aware might stagger some persons, and he begged them to believe that he had not fixed so low a sum without mature consideration. It might be objected, that this was a great deal too little; but he did not wish for sinecurists, or to take from them the desire of obtaining day scholars. He deemed it important that they should find their own interests immediately concerned in this particular. It was in fact important, and it was his great object, that whilst measures were adopted for bringing education home to the doors of all, that all should still pay a little for it. He was desirous of seeing the instructor live by his art, and obtain

some remuneration for his pains, and the advantages which he communicated, from each of his pupils. He, however, allowed a power of increasing the salary with the concurrence of two-thirds of the householders paying school-rate; the absent proprietors voting by agents. He could anticipate that there might be cases in large parishes, such as those of Liverpool or Manchester, where it might be an object of great public importance to secure a schoolmaster of superior talents at a higher salary than 20 or 30*l.*—such men as Joseph Lancaster, had he continued industrious in his vocation; and in mentioning him, although he lamented his errors, he could not but express his sense of the great service which he had rendered to society. With this view he proposed, in the first instance, that the order of sessions for the master's salary should be a warrant to the parish-officers to levy it half-yearly; and 2ndly, that the inhabitant householders might, at a meeting with one month's notice, and consent of the resident parson, increase the salary when the office was vacant, provided that two-thirds of such inhabitants concurred.

He now came to the delicate question of how the expense was to be defrayed; and he was quite sure that no country gentleman would complain of the small additional burthen of a few shillings, or even of a pound a-year, which would be imposed upon him as his quota for the maintenance of a schoolmaster; for in a very few years he or his son would experience a diminution of the parish rates brought about by these very means. The expense of building the school, however, ought not, in his opinion, to fall upon the country gentlemen, but upon that part of the community—those engaged in manufactures—who, whilst they increased the objects of the poor-rates, contributed but little towards them. He should propose then—but here he almost trembled whilst he spoke, for he saw the right hon. the chancellor of the exchequer, was becoming uneasy—the lion of the Treasury was roused—but he should propose that the money be advanced, in the first place by the treasurer of the county, provided that it did not in any case exceed 200*l.* This sum might, however, be deemed too large or too small for the purpose, and he was perfectly ready to acquiesce in some other estimate. This sum, whatever it was, he proposed should be replaced out of the consolidated fund in the hands of the receiver-general of the land-tax, and that the commissioners of the treasury should direct it to be paid on seeing the order of sessions. The digest was, indeed, filled with complaints of the evils that arose from having schools in very large houses, by which the original object was destroyed. He was for making them nothing but school houses, in the strictest sense of the word—buildings, where the master and his wife, with a guardian to assist him, might reside, but in which no boarders should be admitted. He looked upon the schoolmaster to be employed in an honourable and useful capacity—so honourable, that none was more highly to be esteemed, if the individual were faithful in the discharge of his duty—so useful, that no man, he believed, effected more good in his generation than a good parish schoolmaster. That class would not, however, be offended when he observed, that they moved in an inferior station of life—and, their circumstances being contracted, to eke them out they were glad to practise a little land-surveying, or a little conveyancing. The more conveyancing they undertook, the better it was for the profession to which he belonged; for their labours in that line generally brought plenty of grist to the mill in Westminster-hall. Sometimes they only occupied themselves in copying conveyances, which was a more harmless pursuit, and they were generally assisted by their pupils in that innocent amusement. In aiding in the correspondence of the fair, there was often employment for the epistolary taste of the village schoolmaster. Every man who read the Digest, must see the necessity of watching, with the greatest vigilance, the mode in which the building of these schools was contracted for, and carried on. With this view, it was intended that no parish officer should be employed in building a school; and where land for the purpose was purchased from persons in that situation, that the county surveyor should be called in to inspect it, and to report on its value. The public should be answerable for the sum expended in building the school, but the salary of the schoolmaster was to be defrayed by the county. The outfit was placed to the public account, and the salary was made a local matter for the best possible reasons. In the first place, individuals possessing local information could best decide on the amount of salary that should be given; secondly, rendering the pay-

ment a local charge was useful, inasmuch as it established a certain degree of control over the schoolmaster's conduct: and thirdly, that the charge ought to fall only on those parishes or districts that had not already voluntarily provided the means of education. If, for instance, it should happen, that a parish was without any school (as that in which he resided in the country actually was, though it also happened that in that parish there were no children, at least none who were not educated at home), if the present inhabitants paid no master, and their ancestors had not had the grace to found one, it would be hard that the inhabitants of the next parish, who had a school, should be obliged to pay to make up for their neighbours' neglect. But the building might reasonably be paid out of the general fund, as well for the reasons which he had before stated, as because it might form an impediment to the establishment of the schools, because the householders, to whom the power was left of making an application for a new school, might be deterred from doing so by the apprehension of being called on at once for a considerable sum. It would be found that all the four classes of persons alluded to in the digest were landholders; and though they would not be willing to pay the 30*l.* or 40*l.* towards the outfit, they would have no objection to lay down the 20*s.* or 30*s.* for salary. He stated these points, as drawn from the Digest, to show that they were all facts deduced from experience, and not depending on theory. Parish-officers, it would be provided, might summon a jury to assess the value of any land or house that might be taken, whose verdict should be final. It was intended that the warrant for levying the master's salary should be issued half-yearly. Another provision was, that the inhabitant householders might, at a meeting regularly convened, after one month's notice, and the consent of the resident clergyman, increase the salary of schoolmasters, when the office became vacant, by a sum not exceeding 20*l.*, provided that not less than two-thirds of such meeting concurred. Proprietors of above 100*l.* a-year might vote by their agents at such meeting being duly authorized in writing.

They had now the school planted and endowed, and the next step was to put in the schoolmaster, which was one of the most important parts of the whole system. The appointment and the removal of the master were distinctly provided for; and those provisions he would state to the House, rather than send gentlemen to examine a bill, which was very rarely read by those who were directed to it. In the first place, the master's qualification must appear from the certificate of the clergyman, and of three householders of the parish in which he had resided for twelve months; or from the clergymen and two householders of two parishes. He should not be less than 24 years of age, nor more than 40. The youth of some masters, and the advanced age of others, had occasioned great evils. He believed that boys of 15 and men of 70 had knocked up more schools than any other cause whatever. He must be a member of the established church, and have taken the sacrament, in testimony of that fact, one month previous to the election. It was provided that parish clerks should be eligible to the office. Without that specific statement they would have been eligible; but it was thought right to mention parish clerks particularly, as it would be a hint that that body were the best calculated to fill the office of schoolmasters. That ancient but now degraded body, the parish clerks, in the older and better times of the church, were viewed in the light of minor spiritual assistants. Even now, in Catholic countries, they were so considered. They were one of the five minor orders of the Catholic church, amongst whom were the *ostuarii*, the bell-ringers, &c. Our parish-clerk, however, filled a more respectable situation; but the office of late years had fallen so much into decay, that some of those who were appointed to it pursued the very lowest occupations. He recollected one of that fraternity, who, to procure a livelihood, went about singing, or rather disturbing the slumbers of the neighbourhood, if not depressing the spirits of those who did not sleep. In truth, he could not say that his voice was remarkable for its sweetness, or the ditties which he poured forth remarkable for their elegance. Having refreshed the parishioners in this manner, the worthy man regularly proceeded to refresh himself—and, for the most part, it was necessary to carry him home. These were his nightly amusements—his occupation during the day was mole-catching. On Sunday he appeared in church, reading—not indeed with a distinct voice, but as audibly as he could, and as fast as his abilities enabled him to read—that part of the divine ser-

vice which was allotted to him. He (Mr. Brougham) was not very squeamish about these things; but he thought when he witnessed this exhibition (and it was a long time ago), that it was a very undignified mode of performing a religious service. He thought it would be a great advantage, if, by the proposed alteration, a better class of men were placed in the situation of parish clerk, which must be the case if they hoped to combine with that duty the duty of parish schoolmaster. In Scotland, the sessions-clerk, who was connected with the church, was very frequently the school-master.

He now came to the mode by which the schoolmaster was to be elected. 1st, a meeting was to be called, by notice, posted on the church-door a month before the election of inhabitant housekeepers, rated to the school rate. They were to assemble in the church between 12 and 3 o'clock. 2nd, Proprietors of above 100*l.* a year might vote by their agents, authorized in writing for that purpose. 3rd, The senior parish-officer to preside, and have a casting vote, in case of equal numbers. And here he requested the House to observe how he had united and knitted the system with the Protestant establishment. The senior parish officer was to read the certificates, and to declare by letter, to the resident parson, on whom the choice of the meeting had fallen. He, doubtless, would here have the church with him, but he feared that the sectaries would be against him. It did, however, appear to him, that the system of public education should be closely connected with the church of England, as established by law. He stated this, after the most mature consideration; and he was anxious to make the statement, because on a former occasion he did not go quite so far as he now did. He had then abstained from going so far, because he dreaded the opposition of the sectaries. Their argument was, "You are making this a new system of tithe. You are placing a second parson in each parish, whom we must pay, though we cannot conscientiously attend to his instruction." He had bowed to this position; because there was certainly some justice in it; but, when he came to compare it with the inestimable advantages of a system that would secure the services of such a body of men as the established clergy —when he looked to the infinite benefit that would arise from having the constant, the daily superintendence of such a character as a well-educated and pious English churchman—when he became sensible, as he soon did, how much the durability of the system would be increased by giving it that solidity, that deep root, that wide basis which no new system could possess or acquire without being grafted on an old stock, so as to infuse through the feeble and fickle graft all the strength that was imbibed, and only could be imbibed, through a long course of ages, in which that stock had flourished—he felt the full force of the argument, as opposed to that advanced by the sectaries; and if no other argument could have been adduced, that which he had stated was sufficient for him. But there were two other satisfactory reasons which he would state to the House, for connecting the system intimately with the church establishment. In the first place, a religious education was most essential to the welfare of every individual. To the rich it was all but every thing—to the poor, it might be said, without a figure, to be every thing. It was to them that the Christian religion was especially preached —it was their special patrimony; and if the legislature did not secure for them a religious education, they did not, in his opinion, half execute their duty to their fellow-creatures. What would give them the chance that this system of education would be a religious one, was placing it under the control of those who taught the doctrines of the church. Another consideration was, that the church had a direct interest in promoting a religious education. The clergy were the teachers of the poor—not only teachers of religion, but, in the eye of the law, they were teachers generally. It was true they could not be compelled to teach, but they did teach as far as their means allowed them. Their labours in the other parts of the vineyard were, however, too extensive to admit of their cultivating this portion of it to any considerable degree; and therefore it was necessary that they should have assistants to act under them. What then could be more natural than that they should have a control over those who were selected to assist them? He might almost say, that a parson was a clerical schoolmaster, and a schoolmaster was a lay-parson. This was his view of the subject, and the plan he now detailed to the House was founded on that view.

There was one other consideration

which induced him to adopt the principle he had stated. Let the House look to the alacrity, the zeal, the warm-heartedness, which the established clergy manifested for the education of the poor. They did not wait till these numerous statements, filling 2 large volumes, were placed in a more palatable and more digestible shape before the House; but they at once declared their anxiety for the dissemination of education amongst the poor. The names of those individuals were contained in the Digest, certainly against their will; for some of them had not scrupled to blame the conduct of their neighbours. But they overcame any reluctance they might have felt on that head, anxious only for the better education of the poor; and their letters on the subject were now before parliament. In those letters they declared that blessings would be poured down on parliament if they carried into effect a religious system of education, which they expressly declared to be the most effectual barrier against the prevailing vices of the time. These were the persons whom Providence had appointed to assist in this great work of educating the poor. Should they then, to overcome the scruples of a few individuals (he said a few, for many of the Dissenters, he was happy to say, supported the opinions of those who approved of the system)—should they, on account of the scruples of a few, do away all chance of success in this great undertaking, and forego the benefits of this excellent measure, by rejecting such assistance—by turning their backs on the clergy of England, whom Providence had raised up to give strength and stability to the plan? He would say, No. And he had not the least doubt when the Dissenters themselves understood the nature of the measure, that their repugnance to it would be removed.

But to proceed with the point respecting the election of the schoolmaster. The 4th provision under this head was, that the parson might, upon the examination of the successful candidate, reject him, and direct the parish officers to issue notices for a new election. The parson had here a *veto*—not a nominal, but a real and effectual *veto*. This would in a great measure prevent any improper person from offering himself at the period of the election. If such a power did not exist, the appointment might become a mere matter of canvas, and persons not suited to the situation might have a majority. As, in ordination for the church, the bishop had a right to report a candidate for orders *minus efficientis literaturæ*; so, in this case, he would allow the parson to pronounce on the qualifications of the candidate for the situation of master. The next head was that of visitation. The first regulation was, that the bishop of the diocese from time to time, as he might think fit, might visit the school by himself; secondly, by the archdeacon; thirdly, by the dean, within the limits of the deanery; and, fourthly, by the chancellor. The visitor might, in the fifth place, remove the master, who might appeal from the subordinate visitor to the ordinary, and from the ordinary to the metropolitan; all of whom were to act not as courts, but to decide privately on the appeal. This latter regulation might be objected to. He had at first entertained doubts of its propriety, but, by the ancient law, the visitor was privileged to decide privately; and he felt that it would be extremely dangerous to introduce an innovation, without absolute necessity. He had therefore adhered, in this regulation, to the spirit of the ancient law. 6thly, The visitor (subject to the appeal before mentioned) might direct the master to be superannuated, with a pension not exceeding two-thirds of his salary, after a service of 15 years continuance. As no individual would be eligible to the situation after the age of 40, it was evident by this regulation that he need not remain in the situation after he had become too old to perform its duties. 7thly, The diocesan to make yearly returns of the names of masters, the number of children under their care, their salaries and average emoluments, with any remarks that might occur to him; power being granted to him to apply to the parsons for such information as they might possess. This provision was similar to that contained in the Clergy Residence acts (43 Geo. 3rd, cap. 84 and 57 Geo. 3rd, cap. 99). The diocesan, under these acts, returned annually the number of non-resident clergy, and the object he (Mr. Brougham) had in view would be obtained by the introduction of an additional column to the return, in which might be inserted the state of the schools, &c. in the diocese. 8thly, The parson to be allowed at all times to enter the school and to examine the children. The Dissenter might say, that he would be obliged to support this establishment, though he never could be

prevailed on to send his child there. He, however, as the House would presently see, had taken care, in the formation of this measure, that none but very squeamish Dissenters indeed would refuse to send their children to these schools.

The school was now planted, endowed, and the master appointed; and they consequently came to the admission of the children. The first regulation, on this point, was, that the parson, with the parish-officers, as assessors, were, on the appointment of each new master, to fix the rate of quarter-pence—which was to be not less than 2*d.* nor more than 4*d.* per week. 2ndly, This rate to be, in all cases, 2*s.* per quarter, or 2*d.* per week, for the children of persons receiving parish relief. If their parents could pay this small sum, so much the better. If they could not, he was sure the parish-officers would defray the expense; since he believed most of them felt that education was the surest means to check the growth of pauperism. Between those who were thus paid for, and those whose parents defrayed the charge, he would allow no distinction to be drawn. If there were a line chalked across the school-room, indicating that on one side of it there were gentlemen who paid, and, on the other, paupers who did not pay, it would be attended with the worst moral effects. He never would suffer the spirits of poor children to be beat down and broken by such a distinction. He would always, on the contrary, store their minds, as much as possible, with the seeds of independence. 3rdly, The parson, with the parish-officers, as assessors, might direct the master to admit certain children gratis; but no other distinction whatever to be observed respecting such children, or pauper children. 4thly, Parents to be allowed to agree with the master for extra hours, or extra tuition, as they might think proper.

The next head, under this branch of the subject, was the mode of education to be adopted. With reference to this part of the plan, it would be proposed, 1st, That the parson, at each new appointment of master, should fix the course of teaching according to the state of the parish. He should also notify the times of vacation, not exceeding twice a year, either a fortnight at each period, or a month at once. The regulation on this point to be fixed in some conspicuous part of the school-room. 2ndly, The Scriptures alone to be taught, the parson fixing, if he pleased, the passages to be rehearsed from time to time. 3rdly, No other religious book to be taught, nor any book, without the consent of the parson—nor any form of worship to be allowed in the school, except the Lord's Prayer and other passages from the Scriptures. With respect to this provision, he hoped he should not have the church against him here, as he had the Dissenters against him on other points. But he conceived the church had no right to complain when the Lord's Prayer and the Ten Commandments, which were so intimately connected with the Christian religion generally, and which contained doctrines that were not the subject of dispute, were to be repeated in the school. It was not necessary that the schoolmaster should teach any particular religion. It would be much better to leave the children to their Bible alone. It was, in many parts, a much better school-book than any other. Now, so long as nothing but the Bible was taught, it appeared to him that no sectary could refuse to send his children to one of these schools. He did not wish to exclude them—he would much rather invite their attendance, 4thly, The children to attend church once every Sunday, either with their parents or with the master. Dissenters to take their children to their own churches or chapels. To take the children to church once in the day he conceived to be sufficient. When they became adults, they might go twice on Sunday,—the oftener the better; but when children spent four hours at church, they naturally became tired of it. In his opinion, it was not a good plan to keep children more than an hour and a half at religious worship, on the day set apart for it. It was not the proper way to make them love and respect it. Let them go to church in the morning, and let their evening be devoted to that innocent play which was most congenial to their age. With respect to the children of Dissenters going to their own churches or chapels, it was nothing more than was just and proper. Of course, no conscientious Dissenter would allow his child to go to a Protestant church, any more than a Protestant would suffer his children to attend the service of the church of Rome. He had heard it said "Compel all children, Dissenters and others, to go to church," and those who gave this advice founded their opinion on a passage in the report

of a committee, before which the rev. Mr. Johnson was examined. That eminent man, who came from that part of the country which was proverbially well educated, was diffusing in this country the benefits which, at home, he saw derived from the extension of knowledge. His school, in Baldwin's-gardens, the central metropolitan school, was the finest perhaps in the world. Mr. Johnson stated, that many Dissenters sent their children to his school. But what was this but to say that they were not Dissenters? They were what was termed "Anythingarians," or "Nothingarians," — individuals who had no over-ruling predilection for any particular creed; and consequently wholly different from real Dissenters. He would not call on individuals of this latter class to send their children to church. He would not gain converts to the church by duress. He would as little attempt to starve an individual into a churchman by want of mental, as he would by want of bodily food. 5thly, That there should be a school-meeting every Sunday evening, for teaching the church catechism, and other portions of the Liturgy, such as the parson might think fit to direct, and all children to attend except those of such Dissenters as might object. Such a meeting as this would be attended by many children of that species of Dissenters whom Mr. Johnson had described as allowing their children to attend his school at Baldwin's-gardens. 6thly, Reading, writing and arithmetic to be taught in all the schools, and to all the children of fit age.

He had now gone through the three branches of the subject—planting and endowing the school, electing, superintending, and removing the master, and admitting and teaching the children. Those three heads exhausted this part of the subject. He now came to that which was an appendix to the bill, but was of the utmost importance—namely, to make the existing endowments more available to the purposes of educating the poor than they actually were. He hoped that nothing contained in this part of the bill would be prejudicial to it, and that the House would not reject the measure till they saw something better. All that he had laid down in the 4th branch, it was true, was confined to schools; but there was not one point of it that was not applicable to every charity whatsoever. And if the suggestions here contained were extended to charities generally, he should have redeemed the pledge he had given to the House three years ago, when he stated that he would devise a plan to remedy the errors in the existing system. The subject of what he had termed the appendix to the bill consisted of several branches:—1st. Supplying defects in trusts. Enabling trustees to improve the administration of the funds. 3rd. Enabling trustees to improve the disposal and application of funds. 4th, Proceeding for cases of failure, total or partial, in the object of the charity. And 5th, the necessary checks to operate on the whole of the four preceding branches. What he was about to state was founded on the Education Digest, and the report of the commissioners on charitable foundations; and here he took the opportunity of amply acknowledging the beneficial labours of those who had collected such materials. He thought it right to state this, because he did not augur so well of them when they commenced their functions. He perhaps was not wrong in exercising a fair jealousy on that occasion, since it seemed to be beneficial to have the eyes of a vigilant public narrowly directed to watch their proceedings, not with respect to their integrity, but their activity. He would not use the word "retractation," which according to the hon. member for Galway no gentleman could use. but he made this concession, which was all an honourable man could be called on to make. With respect to the latter branches of the bill, for supplying the defects of trusts, it was proposed, first, that where the number of trustees was reduced below the *quorum*, the remainder should be allowed to fill up the vacancy. The second provision for supplying defects in trust was, that, where all the trustees were gone, the founder's heir at law should name trustees. The third was that where no heir at law was to be found the visitor should name trustees. The fourth, where there was neither visitor nor heir at law, that the legal estate, if above 5*l.* a year, should be vested in the clerk of the peace, to administer it under the order of the quarter sessions. And the last provision under this head was, that where there were no trustees, heir at law, or visitor, and the estate was below 5*l.* a year, it should be vested in any three of the charity commissioners.

The next general head was the mode of enabling trustees to improve the administration of their funds. This was proposed to be done—1st, by giving them powers

to sell, borrow, or exchange, or by borrowing for the purposes of repairing, or improving their revenue by new investments, of paying their debts, &c.,—2nd, by making all papers for conveyances or receipts free from stamps; and here again his bill came into contact with the right hon. the chancellor of the exchequer's province;—3rd, by enabling the receiver of the county to hold the money arising fr sales, &c., until invested; and, 4th, by a declaratory clause, that no trustee should be a party beneficially interested in the purchases, sales, exchanges or loans already mentioned. It might be thought extraordinary that such a clause should be necessary. It was not occasioned by any opinions of the lord chancellor or of lord Kenyon. But ignoramuses who had never seen a law-book had pretended to quote the authority of the greatest lawyer that was ever in this country,—he meant lord chancellor Eldon, for an absurdity of this kind, and therefore he had introduced this declaratory clause.

The next general head, in this branch of the subject, was that for enabling trustees to improve the application or disposal of their revenue. Under this head he should propose two declaratory enactments to secure the intentions of founders, and two enacting clauses for altering the laws of the foundation in order to effect their obvious object. The first declaratory enactment was, to allow trustees in all cases to contract with the master of a grammar school to teach reading, writing and arithmetic, by himself, or assistant, on the same terms as in the ordinary schools. With existing masters it would be voluntary, so that vested interests were not to be touched. But on all masters hereafter appointed it was to be binding. But the dignity of the master would be saved by allowing him to teach inferior branches by an assistant, and the expressed object of the foundation would be effected by the master teaching the same branches that were now taught in grammar schools. The second declaratory enactment was, to enable trustees to make the number of children, now limited and not confined to grammar, unlimited, and to limit or prohibit the taking of boarders. Here it appeared strikingly true, as stated by lord Kenyon, in the 6th volume of the Term Reports, how shamefully the intentions of founders were perverted. In many instances the master did nothing but receive the salary, so far as the foundation was concerned, while he kept 50 boarders at 100*l.* each. The salary in many instances was no more than 50*l.*; but even if it were 100*l.*, the schoolmaster would willingly give it to the poor if they pleased, his wish being only to have the situation of master of the endowed school and the house. In some places there were but 20*l.* for a library given to the master, but then the sum was unlimited for repairs. In one instance, where only 10*l.* were paid for rent, 401*l.* were paid for repairs and taxes. The object was, to drive away as much as possible the poor from the benefit intended for them. The master was quite ready to teach them, but he was bound only to teach Latin and Greek, and nothing else. "My school," he would say, "is open, but then I can teach you only Latin, Greek, and, if you please Hebrew." The children of paupers and beadsmen might thus be taught Hebrew roots, and the *paulo post futurum* in Greek, but they could not be taught reading, writing, or arithmetic. The schoolmaster gained all the benefit. Let him have the benefit of boarders, and gain 5,000*l.* a year elsewhere, but let him not occupy the situation of another, who should be bound to teach English; or let him retain the name and the place, but let his *ostiarius*, or usher, teach the inferior branches, while he taught Latin, Greek, and Hebrew. In many cases those grammar-schools were expressly founded for paupers. But paupers were said to be persons in easy circumstances. He would not enter into any discussion respecting the universities, that *multum vexata questio*. But when the poor were mentioned every man at once saw that men of easy fortunes were meant. It was, indeed, less obvious, that poorest meant the same class of persons; but when it was recollected that poor meant affluent, it might be inferred that poorest meant the most affluent. Possibly those who were poor at the time some of the establishments were founded, might, as things stood at present, be regarded as persons in easy circumstances. But the case was not left in any state of doubt by the will of several of these benevolent founders. For instance, in the establishment at Lewisham the founder distinctly prescribed the education of the poorest children, and on other foundations the provision was specifically for the children of the poor in

alms-houses, while in others the provision was for the children of persons in low estate involved in distress, or hardly having the means of common sustentation. In others, too, it was directed, that the children of parish paupers should be educated. It would be allowed, that these at least were not the terms best calculated for conjuring up to our idea the affluent, and those abounding in every luxury, clothed in purple, and cloth of gold. In the times when those endowments had been made the poor were taught Latin; but not in the sense now attached to that part of education; they were taught Latin for the church service. This was well known to have been necessary in Catholic times, for the priests were taken from the lowest orders of the people. It was true there were then barons, fortified three deep in castles; whose daughters were almost royal, for often they were married to sovereigns; who while they sent their eldest sons to the army, designed their youngest sons for the church. The avowed reason was, that they might pray for the sins of their father who had just returned from, and their brethren who had just gone to the wars; but another consideration was, that they could generally obtain a *commendam* of 10,000*l.* a year. Thus was one branch of the church supplied. But the vast majority of those who belonged to the clergy in those days were the sons of the poor; he meant the monks of all orders; and hence the necessity of having the children of the poor instructed in the Latin language in endowed schools. Had the pious founders of those schools foreseen the light of the reformation which was afterwards to dawn upon the world, they would indeed have hated it, because they were ignorant of its advantages; but, had they foreseen and understood the value of that greatest revolution which ever blessed mankind, they would not have confined their endowments to the teaching of Latin; but would have required the English to be taught as the language in which religion could be taught. To his mind it was conclusive that they would not have neglected the language in which church service was to be performed twice every week.

Let it not be said that grammar-schools would thus be degraded into parish schools; he held in his hand a list of 200 endowments, with calculations of what they actually did, and what they really could do by the improvements proposed. Here again he was obliged to have recourse for illustrations to the north. In Cumberland there were 8 schools, of 500 boys each, at an annual expense of 292*l.* In 16 other counties there were 101 children educated at an expense of 3,123*l.*; the average in the first case being 11 shillings and sixpence for each child, and, in the others, 30*l.* 19*s.* for each. Thus 5,246 children could be taught in these schools, on the Cumberland average. It was practicable, upon a proper plan, to educate 35,000 children, in 100 schools, at an expense of 2,500*l.* a year. Economy was with him but a secondary consideration in the proposed bill; but if they regulated well the funds already provided, they would introduce much economy into the system of education. His principal object was to regulate these schools, and connect them with the parish schools.—This he would do without degrading the head master from the rank of a gentleman, because he would have the inferior usher to teach the lower classes in the school. This would have a most desirable effect, inasmuch as it would open the door of preferment to the parish schoolmaster, and raise that class of men above their present condition, by raising their emulation, and instigating them to acquiring that knowledge which would fit them for higher situations. It would be an advantage analogous to that which existed in the church. Many persons objected that in the church one individual should have 20,000*l.* a year, while another laboured for 50*l.* a year; but the good must be weighed with the bad, and this good would be found in the disparity of income, that, by how much 20,000*l.* was superior to 50*l.*, was the character improved and the class raised of the persons who had only 50*l.* but who had a prospect of obtaining 20,000*l.* Mr. Burke had said of this variety of orders in the church,—he begged pardon for referring to a writer whose very words he could not recollect, but from whose words no variation could be made without loss to the force and illustration of his meaning,—but Mr. Burke had said, that the church ought to rear her mitred front in courts and palaces; and this, he said, was necessary, not for the sake of the mitred heads, but for the sake of the people; the poorest of whom were interested in the character and talent of

the clergy of all orders. For the same reason he was for establishing that principle with respect to schools. No means could be so effectual in raising the character of parish schoolmasters as to make it common property between a parish school and a grammar school. This was the kind of reform which Mr. Burke had recommended as the most useful and the wisest; as tending at once to preserve and to improve; so he (Mr. Brougham) was for rejecting only what was bad in the present system, and for improving what was good; and thus to obtain, with the life and vigour of a new institution, the sanctity and veneration of the old.—Among the provisions of his bill he meant to propose, that where any charitable establishment, originally designed for boarding, lodging and clothing, as well as for educating poor children, was found deficient in funds, those establishments should, if necessary, be confined to education alone. For it was no part of his views to establish hospitals for the children of paupers, by making a provision to board, lodge, and clothe them; such establishments indeed were, in his judgment, but to much calculated to remove every salutary check to an over-abundant population, and therefore ought to be deprecated. There was no worse charity than that for clothing and boarding. It was a premium for the neglect of prudence and frugality. The town of Bedford was an instance: for 30,000*l.* a-year were so employed there, and yet Bedford was overwhelmed with paupers. It was infinitely better to let children be fed and clothed by their parents. Hospitals for children were but nurseries for population, and contributed more than any other means to derange the regular course of population, and to counteract the principles of the soundest political science, especially in the encouragement which they afforded for improvident or careless marriages. He wished to promote instruction by every possible means, but by no means to countenance such injurious establishments. The next provision in this department was for enabling trustees to treat with the ministers and parish-officers, or two justices of the peace, for having the children permanently taught in the parish school, where the founder had designed that they should be taught in other schools, but that design had been frustrated by the inadequacy of the funds. Another part of this provision was, that where no endowed school was found, the funds should be applied in aid of the parish school. In both these cases, the founder's name was to be placed conspicuously on the outside and on the inside of the school-house. If all parties agreed that an endowment-school should be put on the same footing with the parish-school, no objection could be made to that arrangement; and the master might be rejected in such a case who was not approved by the parson. The last head of all was that where there was a failure of the objects of the trust. This failure was in many cases total; in others it was partial. There were now 4,500*l.* a year belonging to the Tunbridge school, and a decree had been made to that effect, but 500*l.* a year was twice as much as was wanted for that school. The superfluous 4,000*l.* in this case, would, according to his plan, be sufficient to provide for the support of 200 schools, which would be quite enough to educate the poor children of the whole county of Kent. In order to remedy all such failures of the objects, he proposed to give power to trustees to appeal to the commissioners of charitable abuses.

He had now gone through the plan he proposed, and had, he feared, fatigued the attention of the House. Its merits must rest on itself. But it was necessary for him to speak at some length in order to explain his views, and he hoped the House would think that he had redeemed the pledge which he had given two years ago. Before he concluded, he was anxious to do justice to those meritorious individuals who had assisted him in this task. He had never known individuals who had been so diligent in a labour new to them, and therefore the more difficult, and so skilful as they had proved themselves. If this inquiry should be extended to Ireland, if statistical researches were generally pursued,—a pursuit so honourable and so useful, so honourable as a matter of science, so calculated to distinguish us among the nations of Europe, and so useful in promoting our morality and security; if other statistical inquiries should be instituted, those who had assisted him on this occasion would be better qualified for it than any others, and than they as well as he had been for this inquiry. He had been able to apply only the summer and part of his vacation to the task; they had applied the whole year He was precluded from mentioning their names, but he should not have done jus-

tice if he had not mentioned their merits. The mere progress of education was not all he expected as the result, if this plan were cautiously and steadily acted upon. He anticipated that dame-schools would get into better hands, and be better conducted. One school of that most interesting class was but a short walk from the spot on which he then stood; and he had already called the attention of the House to it. If a child was neglected till six years of age, no subsequent education could recover it. If to that age it was brought up in dissipation and ignorance—in all the baseness of brutal habits, and in that vacancy of mind which such habits created—it was in vain to attempt to reclaim it by teaching it reading and writing. They might teach what they chose afterwards; but if they had not prevented the formation of bad habits, they taught in vain. But if dame-schools were better regulated, and adapted to the example of the school in Westminster, and the examples of Fellenberg and Lanark, he would not say that there would not be a pauper or a criminal in England, but he could say that Scotland or Switzerland would not have fewer than England, even in seaport-towns. An infant was in a state of perpetual enjoyment from the intensity of curiosity. There was no one thing which it did not learn, sooner and better than at any other period of life, and without any burden to itself or the teacher. But learning was not all, nor the principal consideration—moral habits were acquired in these schools; and by their means children were kept out of nurseries of obscenity, vulgarity, vice, and blasphemy. In the establishment at Westminster to which he had just alluded, none but children between three and five years of age were admitted, and there they were kept out of the streets, and taken care of by a parental indulgent dame, while their mothers were set at liberty to go out and work. The expense of this establishment was quite trivial, especially compared to the good which it produced. Such establishments, therefore, would, he trusted, be universally created. They required but little money, and the superintendance of a dame of good temper, who might let the children indulge in any amusement; always taking care, however, to keep them out of improper company. Whether they learnt less or more was of little consequence. The moral discipline was the great consideration. When he was in Switzerland, talking of the Bell and Lancaster system, his friend, M. Fellenberg, had said to him, "it teaches too fast—you make mere machines of your scholars." He had not been able to answer that objection. The school in Westminster was intended for that purpose. It brought the mind of the child into sufficient discipline by the age of six years, to give it all the advantage of the Lancasterian system afterwards.—There were one hundred of the children in the school at Westminster who did little more than attend the school, and even by this much good was done. Their mothers were able to go out to such work as they happened to be engaged in, and while they thus gained 3s. or 4s. a week, did not grudge paying a single penny of it for the education of their children. He would be exceedingly glad of contributions from any gentleman who had heard him, but the contributions he had mentioned proved the utility of the institution. Who could deny that children thus educated were prepared, though not perhaps fully prepared, to defy the shocks and buffettings of the world infinitely better than they whose progress was more showy, but who became only educated machines? He had almost forgotten to state the expenses of carrying his plan into effect. Taking the average from Devonshire, which was the county least provided with schools, the expence would be for building of new schools, purchasing of ground, &c. &c. 850,000*l*. But taking the average from Cumberland, it would be only 400,000*l*. Striking a fair medium, he calculated that about half a million would be sufficient—a less sum than had been granted by parliament for building six churches. There had been a time when such an object would have been provided for in England, without any hesitation or delay, by a voluntary subscription—but that time had ceased—the various burdens of taxes and rates had put an end to that feeling, and he was compelled to require the necessary aid of parliament. The expence, however, of building these schools, combined with the maintenance of them (which he estimated at about 150,000*l*. a year) was so comparatively trivial that he could not suppose parliament would refuse to assent to it; especially when the important objects in view were duly taken into consideration. Of course he should go more fully into the details of the proposition when in the committee. At present

he would conclude with moving "That leave be given to bring in a bill, for the better Education of the Poor in England and Wales."

Lord *Castlereagh* said, he had listened with much satisfaction to the perspicuous details given with so much ability by the hon. and learned gentleman. He was quite incapable of giving any opinion at present on the general merits of the proposed plan, but he should best discharge his duty by giving his consent to the bringing in of the bill, reserving to some future occasion the discussion of its principles. From the importance of the subject and the great interests involved in it, he hoped the hon. and learned gentleman would not press the bill during the present session. After the bill should have been brought in, it could be printed, and members would then be prepared for its discussion. He, at least, would give it his best attention.

Mr. *Brougham* said, he had no wish to press so important a measure hastily through the House, as, independently of the advantages which would accrue from its discussion within doors, great advantages would also be gained by its discussion out of doors—he meant among the clergy of the establishment, and all who were in any way connected with it. If the sense of the House should appear to be in favour of passing his bill during the present session, he should certainly, speaking individually, be better pleased; but if the House should think that it ought to be delayed to a future occasion, he should cheerfully submit to such delay as to the House might appear most advisable.

Mr. *Wilberforce* expressed the obligations which he felt to his hon. and learned friend for the exertions which he had made, not only in establishing the principles, but in explaining the details, on which his bill was founded. He was confident that those exertions would be productive of the greatest benefits to the community, and that too at no very distant period.

Mr. *V. Fitzgerald* had listened to the hon. and learned gentleman's speech with the utmost attention, and expressed his opinion that the details which were presented in it rendered it more incumbent than ever upon the House to take the state of education throughout the country into their immediate consideration. Some of the plans, however, which the hon. and learned gentleman had proposed were totally inapplicable to Ireland. If he had not himself called the attention of the House, as he had promised on a former occasion, to the necessity which existed for advancing the interests of the poor in Ireland by a similar investigation, it was not because he had abandoned the intention of doing so, but because he deemed the present to be an unfit time for the institution of such a measure. The circumstances of that country rendered it peculiarly necessary that some steps should be taken for the moral amelioration of its poorer inhabitants.

Sir *J. Newport* also remarked on the deficiency of education, and the necessity of bestowing it on the people of Ireland. He was sorry that the act for numbering the population had not been sooner put into force, because that, by showing the extent of the want, it would have brought the House so much nearer to the accomplishment of that object. He considered that in any measure of this sort as applied to Ireland, it should be distinctly borne in mind that the great majority of the nation were of a different religion from that of the state.

Mr. *Brougham* observed, that he had studiously abstained from any mention of Ireland throughout his address to the House, from a consideration of the state of religion in that country; and if the Dissenters in England bore any such proportion to the members of the Established Church, as the Catholics in Ireland did to those of that country, his views of the subject would have materially differed.

Sir *James Mackintosh* said, that he had read with great satisfaction the report of the education committee, and had heard with still greater satisfaction the measure which his hon. and learned friend had founded upon it. Having been himself alluded to in the course of the observations which had been made upon this subject, he would assert, that though he might be considered a speculatist, yet he was no visionary on the subject of education. He did not intend to trouble the House with many observations on it at present; but he could not help making one observation which had been repeatedly forced upon his notice during his residence in a distant part of the British empire. He had repeatedly had occasion to remark that morality if not produced, was at least best preserved, amongst those of our soldiers and sailors who were possessed of the power of communicating with their relations in Europe by means of writing. It was a truth so obvious, that there was no need for him to waste words in dilating

upon it, that the most powerful incentive to virtue, and the most effectual restraint against vice, was destroyed, whenever the opinion of the circle in which a man moved ceased to have an influence upon his conduct. When the intercourse with that society in which he originally moved ceased totally to exist, the restraint against vice generally ceased to exist at the same moment. Character was then lost; because no sense of shame was left to preserve it, because no affections bound the individual to society, because no attention to his establishment in life secured his good behaviour. He had seen the beneficial effect of keeping up an intercourse with their friends and relatives in Europe strikingly exemplified in those soldiers who came from the same part of the island of which he was a native; for they had often made him the channel through which they remitted sums of money to their relatives at home—sums which he allowed were but small in themselves, but which were of so much the more value, as they would induce virtue, temperance, and frugality, if not domestic affection. At that time it appeared to him that the art of writing, which one of our poets had so warmly eulogized as calculated to promote affections much inferior to those which he had just mentioned, was an art which made it almost true that those who were acquainted with it carried their homes with them wherever they went; for by it they were enabled to look back upon the home where they were born as the home to which they would hereafter return. All this depended upon the art of writing, which was used by them for a better purpose than that of "wafting a sigh from Indus to the pole." It was used by them to solace the sufferings of aged and absent parents, and to foster all the noblest affections which belonged to humanity.

Leave was given to bring in the bill.

DISTURBANCES IN IRELAND.] Mr. *Daly* rose to bring forward his promised motion. He expressed his regret that he was under the necessity of calling the attention of the House to the disturbed state of Ireland. There never was a period when the state of that country required a more prompt and vigorous interposition on the part of government; when the disturbances were so extensive, and the outrages of so violent and dangerous a character. He should abstain from entering into any topics which were likely to provoke discussion, such as Catholic emancipation, or the commutation of tithes, whatever opinion he might entertain of the high importance of those questions. The state of disaffection and disturbance to which Ireland had been constantly subject for the last sixty years, might be in a great degree attributed to the melancholy condition of the lower orders of its population. In a country which was for the most part destitute of manufactures, the population was almost entirely employed in the cultivation of the soil, and much of the existing distress had arisen from the large sums offered to landowners by the tenantry, by which proprietors had unfortunately suffered themselves to be tempted, but which it was wholly beyond the means of the tenant to pay. The disturbances to which he had alluded commenced about the middle of November last, in the county of Roscommon and the parts adjacent. An application was made to government by the magistracy, who undertook to preserve the peace of their district if 60 men were sent down to assist them. This assistance was refused, and the consequence of the refusal was, that the disaffection spread so rapidly that it was necessary very shortly after to place four districts under the Peace Preservation act. Renewed disturbances took place, in which some lives were lost, and a gentleman of respectability was shot by the road-side in a public highway. In consequence of this atrocious murder a meeting of magistrates took place; resolutions were entered into for the purpose of detecting and bringing the offenders to justice, and upon an application being made for 150 soldiers, government, which had a fortnight before refused 60 men, now refused to grant 150, upon the ground that they were afraid to trust so small a number of soldiers within the district. Disaffection had now reached such a head, that the whole eastern part of the county, consisting of 13 baronies, was placed under the Peace Preservation act. The meeting of the magistracy was adjourned for a fortnight, it not being deemed prudent to adjourn for a longer period, and in that short interval, such was the increased audacity of the rebels, for he could designate them in no other manner, that upwards of 70 gentlemen's seats had been attacked and plundered, and there were actually not five seats in the whole district which had either not been entered, or defended and

saved from the depredators after an obstinate engagement. Government, which had refused 60 men in November, in the middle of February were ready to grant a military force of 3,500 men. The rebels who had before confined their outrages to the night, now marched in parties of 1,200 and 1,500 men in open day. They attacked the police barracks, and thirteen of the police were dangerously wounded, in a desperate engagement, which lasted from half past nine in the evening till three in the morning. For above five hours was this band of rebels engaged with his majesty's organised and veteran troops. He would ask whether this state of things did not demand the interposition of his majesty's government, and whether the country was to be left exposed to a renewal of those atrocities upon the return of winter? Memorials had been presented to government by the magistracy, but his majesty's government had not thought proper to take any notice of them. There was an armed and organised force from one end of the country to the other. Some measure, therefore, such as the Insurrection act, or some act modified as to the most objectionable parts of the Insurrection act, was imperiously demanded to insure the public peace. It might be said, that when the assizes came on several examples had been made; that some of these men had been hanged and others transported; but so little effect had these punishments had in subduing the spirit of disaffection, that he could state from his own knowledge, that on returning from the funeral of one of these criminals, a meeting was fixed by the leaders of the insurrection, and was actually held upon the spot where the execution took place. Several shots were fired upon the magistrates on this occasion, and one of the witnesses, who had given evidence against their comrade, was shot at his own door. In this situation of the country, it was not very satisfactory to reflect upon the probable renewal of these horrors in the ensuing winter. As soon as he understood that his motion was likely to be opposed by his majesty's government, he had communicated with the principal gentlemen, with the superintending magistrates, and with some of the first legal authorities in that country. He would state to the House the substance of some of the letters which he had received from the principal Protestant and Catholic gentlemen of the county. He had a letter from the archbishop of Tuam, stating his belief that the country was in a most melancholy situation, and demanded the most prompt and decisive interposition of government. That distinguished person had been compelled to lay aside his clerical character, and was in fact one of the most active magistrates in the county. Mr. D'Arcy, the chief magistrate of the county, who had been sent down by government as superintending magistrate under the authority of the Peace Preservation act, was of opinion that the prevailing spirit of disaffection could not be subdued without arming government with some extraordinary powers, and that there was no objection to a revival of the Insurrection act. Government had, indeed, in some respects, awakened to a sense of the necessity of preserving the peace of that district. The country was studded so thickly with military, that no man could stand at his door without seeing parties of soldiers. Government had been obliged to take another step which was unconstitutional, although he allowed it was necessary; namely to grant the qualification of the peace to field officers and captains commanding detachments. If such was the alarm felt at the present moment, what would be the case in the long nights, when a part of the army would probably be withdrawn, in a country in which the whole population was armed? What he had described related only to one county. He had heard that both Kilkenny and Cork were disturbed, and that horrible outrages had been perpetrated in Westmeath. Putting that out of the question, however, there was the fact that four counties had been proclaimed. He had felt it his duty to state the facts of which he had been an eye-witness. He had gone out on nights for a fortnight together, to search the houses of persons, and he had hardly ever found an able bodied man at home. He had met numbers on the road. If they were civil, they replied to his inquiries that they had been dancing at a wedding; if saucy, they asked what it was to him? He was obliged to let them go on, although he knew perfectly well their object. He concluded by moving, "That a Select Committee be appointed to take into consideration the progress and extent of the Disturbances at present existing in Ireland, to examine whether it be necessary for their effectual suppression to intrust to the

Government of that country any and what additional powers, and to report their observations thereupon to the House."

Mr. *D. Brown* said, it was impossible by ordinary means to put down the disturbances that existed, and hence it was, that his hon. friend called upon the House to accede to his proposition for a select committee on the subject. It was well known unlawful oaths were every where administered, especially in the disturbed districts, and that nothing but the presence of the military preserved the public tranquillity.

Mr. *Charles Grant* perfectly agreed with the hon. mover in the extreme importance of the subject, not merely because it involved the character of the existing government of Ireland, but much more because it involved the consideration of the principle on which Ireland had been and ought to be governed. He (Mr. Grant) was certainly in a singular situation. He had felt it his duty already to state to parliament that there did not appear to the lord-lieutenant and the government of Ireland, to be any ground for proposing the renewal of the Insurrection act. And now an honourable gentleman rose, and with curious inconsistency complained that the Irish government was not alive to the state of Ireland, and at the same time proposed to enact a law which was, to give that government a discretion that they did not think it necessary to possess! He felt bound to oppose the motion; not merely because it was brought on so late in the session (although that, notwithstanding the explanation of the hon. gentleman, would have been sufficient); not merely because if the House were absolutely to go into a committee, the proposition of the honourable mover was not sufficiently extensive; as it did not include any inquiry into the local and general causes of the disturbances; not merely because he was hostile to the supposition of the hon. gentleman, that only what were called strong measures could be salutary; but because the bill which the hon. gentleman recommended was contrary to that principle on which, in his opinion, the government of Ireland ought to be conducted. Did the House recollect what were the provisions of the Insurrection act? Did they recollect that it forbad every person to be absent from his house from sun-set to sun-rise? Did they recollect that it established a perpetual sessions, to which persons apprehended for a violation of the law might be taken, and, without a grand jury or a petty jury, on the sole opinion of the magistrates at those sessions, acting under the influence of the passions and the feelings of the moment, condemn to transportation for seven years? Such was the Insurrection act; and the complaint was, that the government of Ireland were reluctant to re-enact it. Nay, the meeting in Galway had declared, that if the Irish government did not propose its re-enactment, they would forfeit the confidence of the country. Something, however, had been said of a mitigated Insurrection act, by which persons accused of violating it should be tried by a jury. Now it was his deliberate opinion, that under the peculiar circumstances of Ireland, it would be better to have the Insurrection act with all its enormities, than this modified act; because, if parliament were to adopt the severer measure, they would guard against its continuance; whereas, he had little doubt that the milder measure would be rendered permanent.

"O! gently on thy suppliant's head,
Dread Goddess! lay thy chastening hand,
Not in thy Gorgon terrors clad."

In that "benign form" he had no doubt that an attempt would be made to render the Insurrection act permanent. The hon. mover, in laying the grounds for his motion, had spoken much of the disturbances in Ireland. He (Mr. Grant) was not informed to that effect. By the accounts which he had received it appeared that Ireland was in a state of great tranquillity. He was never disposed to disguise evils and dangers; but he felt that it was his duty not to exaggerate them. The people of Ireland were rather hardly dealt by. If there were any local outrages in that country then the Insurrection act was called for; if quiet seemed to prevail, it was said to be delusive, and to threaten a tremendous convulsion. If he were asked whether, Ireland was in such a state that all considerations for the future might be calmly resigned, his answer would be, that he would be a bold man who, in the present state of the world, would predicate that of any part of his majesty's dominions. Unquestionably there were in the history of Ireland deeply seated causes for discontent and disturbance. For these causes they must look to the two centu-

ries which preceded the middle of his late majesty's reign. Never had a great nation been ill-treated with impunity. If great principles were sacrificed to gain a temporary end, for the moment safety might be obtained, but the hour of retribution would surely arrive. The present causes of the agitation with which Ireland was occasionally afflicted were, among others the extent of illicit distillation, the fatal influence of religious animosity, the redundance of population, and the absence of employment. But what had those causes to do with an inquiry by a committee of that House. Some of them no legislature could reach. They must be left to time, and to the beneficial effect of a more general intercourse with England. Some of them it was in the power of the resident gentry to control. Undoubtedly there were causes of the evil to which the legislature ought to look; but they were not fit subjects for the investigation of a committee; they were abundantly notorious and ascertained. But above all, the renewal of the Insurrection act would be the worst mode of meeting the evil. Adverting to the recent disturbances, the right hon. gentleman observed, that it was unpleasant in him to make the remark; but as the hon. mover had put the government on its defence for its conduct on that occasion, he was obliged, however reluctantly, to say, that every person connected with the government of Ireland must, under such circumstances, expect to receive, day after day, applications for military force, accompanied by declarations of great alarm and infinite danger. No doubt, those by whom such declarations were made thought them well-founded; but it was the duty of government to use a sound discretion, and to consider how far it might be proper to afford the required aid. Under such circumstances the first duty of government was, to endeavour to rouse the local authorities themselves to attempt the suppression of the evil. If that failed, their second duty —a duty to be always reluctantly performed—was to supply such a moderate military force as would enable the local authorities to suppress the evil. If that should fail their next duty was to resort to the provisions of the Peace Preservation bill. He was not presumptuous enough to say, that no reproach whatever could attach to the present government of Ireland: but, attacked as that government had been, he might perhaps be allowed to maintain, that in the instance in question it had acted as it ought. The right hon. gentleman here entered into a minute detail of the applications which had been made by the magistrates of the county of Galway for military aid, and of the measures taken by the Irish government in consequence. During the last thirty or forty years, it had been the conviction of successive administrations in Ireland, that it was necessary, by some means or other, to descend from the system of extraordinary measures by which that country had been so long governed. That conviction was manifested by the government of lord Cornwallis. It was manifested to a great extent by the administration of his right hon. friend who had immediately preceded him (Mr. Peel). His right hon. friend had established the Peace Preservation bill, because it was not safe to descend too suddenly from the system which had been so long pursued. The Insurrection act was in force when his right hon. friend came into office, but he had wisely allowed it to expire. Under what circumstances was Ireland when that act was allowed to expire? The counties of Tipperary and Down had just recovered from an insurrection. In Louth there had been great agitation, and many atrocities had been committed. These evils had been suppressed by the application of a large military force—by the operation of the Peace Preservation act—and, as was believed by many, by the operation of the Insurrection act. What did his right hon. friend do, zealous and anxious as every one knew he was for the peace of Ireland? Did he declare the apparent tranquillity hollow, and ask for the continuance of the Insurrection act, that it might be ready for the next winter? No—not because he did not expect disturbances would recur, but because he believed the power with which the government was vested by the constitution to be sufficient for their suppression. What was the case at present? There had been some disturbances in Galway. Those disturbances had been suppressed. How? By a military force, and by the operation of the Peace Preservation act. The tranquillity of the county of Clare had been menaced. The threatened movement had been repressed, by the exertion of the resident gentry, and by the operation of the Peace Preservation act. The tranquillity of the county of Mayo had also been threatened but had been maintained by the vigorous ef-

forts of the local gentry, even without the Peace Preservation act. Did he say, that there would never be any further disturbance in Ireland? Was he to be told by gentlemen whom it was his interest and his wish to conciliate, that he was abandoning the cause of Ireland, because he was unwilling to place in the hands of the lord lieutenant and the government of Ireland a power which, until the passing of the Insurrection act, had never existed since the days of the Norman conquest? As he was speaking on this subject, he was bound to say, that if the same exertion had been made in the county of Galway, as in the counties of Clare and Mayo by the resident gentry, the disorders would have been checked in the first instance. In support of that opinion, and of the necessity for such exertion, the right hon. gentleman quoted at considerable length the charge of judge Daly who went to try the ribbon-men in Galway; and who strongly reprobated the conduct of those who conceived that they should save their lives and property by his supineness, and a leaning to the mob. From this censure it was but just, utterly to exempt the hon. mover of the proposition before the House as well as several other honourable gentlemen. To the charge, therefore, of being careless as to the future tranquillity of Ireland he could not plead guilty. He had an unfeigned respect for many of those who differed from him in opinion on the subject; but he must put it to their good sense and feeling seriously to consider on what principle the government of Ireland ought to be conducted. Was it not important to ask when the system which had so long prevailed, was to end? Was it not important to determine what should be the limit to the system of extraordinary measures? If a modified insurrection act were adopted, to-day, why might not a complete insurrection act be adopted a year hence? Why might it not be proposed to abolish the Habeas Corpus? He appealed to those who were conversant with the history of Ireland, whether they did not in their conscience believe that the greater part of the evils under which Ireland now laboured, were attributable to the system which had been pursued for two centuries? The case of Ireland had always been considered as an excepted case. This had been the unvaried tone—that such or such a particular measure might be very good for England, but that it would not be good for Ireland. The calamities by which Ireland had been most deeply afflicted, were to be mainly ascribed to their constant recourse to extraordinary measures. To them was to be traced the too general abandonment, by the magistrates of Ireland, of their proper functions, and the consequent destruction of the mutual relations of dependence and support between them and the people. If the laws of a country did not restrain alike the rich and the poor—if they were rendered applicable to one class and not to the other, how was it possible to suppose that magistrates could be found capable and willing as in England to discharge with correctness all the high duties entrusted to them? But if such was the effect of the system to which he alluded on the magistracy, what effect had it on the great mass of the people of Ireland? With what aspect had the constitution been always shown to them? Angry and vindictive. It had been exhibited, not as the medium of doing justice, but as affording the means of gratifying resentment. It was the essence of all good government, that the excesses of the people should be resisted by steady and constitutional, and not by extraordinary measures. More especially was it expedient that the people of Ireland should find that their crimes and excesses were met not by extraordinary measures but by the established laws, and by the constitution, in the common and daily exercise of its powers. He would again appeal to those hon. gentlemen who were connected with Ireland—he would again call on them to consider whether it would not be very practicable, by local exertion, to do away with the necessity of a recourse to any such measure as the Insurrection act. He intreated those who came to that House for stronger powers to protect them from the people, to consider if, in the districts in which they resided, the local causes of the evil might not be so softened as to supersede such a fatal necessity—fatal, not merely because it was in itself a violation of the constitution, but because it naturally led to greater violations of the constitution. He did not say that it was practicable immediately to abolish the system which he had so strongly reprobated. He might fail in the attempt; his successor might fail in the attempt; but ultimately he was persuaded that that important object would be accomplished. It was by a steady and

inflexible adherence to constitutional principles that England had attained to her present prosperity; and by pursuing a similar course he hoped that Ireland would share the advantage. It was on these grounds that he must most respectfully but most firmly oppose such propositions as that under consideration. He was not so rash or so foolish as to say that there would be no more disturbances in Ireland, but he would say, that come when they might, they ought to be met on the principles of the constitution. A sudden emergency might require a temporary remedy; but whenever the great features of the law by which Ireland was governed, differed from those of the law by which England was governed, he could not but consider that difference as a departure from justice and wisdom. The right hon. gentleman sat down amidst loud and general cheers.

Mr. *Dawson* regretted, in common with his hon. friend, the inattention which had been paid to the general state of Ireland by the government, of which the right hon. gentleman formed so prominent a member. A great part of the session had now elapsed, and no notice had been taken of the nightly meetings, the outrages, and the bloodthirsty assassinations which had invaded the quiet of a whole province, and produced the loss of many lives. Had his hon. friend proposed an insurrection act at once, he should not have supported such a motion, because he was, generally speaking, averse to measures of violence rashly or hastily adopted. The evils of the state of Ireland at present originated, in a great degree, from those unavoidable circumstances in which she had been placed for a series of years past. The soldiery, scattered at a great distance from head-quarters, too often plundered the peasantry. This begat reprisals, and the peasantry rose in arms, or secretly avenged their wrongs by assassination. The Insurrection act was passed in 1807, with a view to prevent the necessity of employing the military. The danger now was greater; and yet any measure of this nature was declared by government to be unnecessary. Gentlemen who, like himself, were in the habit of supporting government, expected they should be protected by the government in their turn; and it was of greater importance to them that their dwelling should be protected, their repose undisturbed, and their lives unmenaced, than that any particular set of men should hold the reins of government. He had, in common with most liberal Irish gentlemen, the highest respect for the candour, feeling, and worth of the right hon. secretary for Ireland; but whilst he made this admission, he could not help saying, that he felt it his imperious duty to support the motion of his hon. friend.

Mr. *W. Parnell* said that from the statements he had that night heard, he should have imagined that Ireland was in a state of universal disturbance; but the fact was, there had been some disturbance in Galway, and they were now called upon for more rigorous measures, after the lenient proceedings of government had had their proper and full effect.

Mr. *Wellesley Pole* said, he felt it necessary to point out to his hon. friend, the member for Galway, why he considered the measure of an Insurrection act perfectly unnecessary. The British House of Commons would always hear with surprise an application from Irish members to coerce their own country, by enactments abhorrent to the constitutional feelings of that House. It was remarkable, that although the Insurrection act had been passed in 1807, as a means of intimidating and keeping the spirit of insubordination in check, it had never been acted on, except in the district alluded to, although frequently applied for by local magistrates in other quarters of that country. The object of government at that period, and he then formed a part of it, was, to conciliate the feelings of the people, whilst they endeavoured to possess themselves of sufficient power to govern that country with tranquillity. Was the House prepared to strengthen the hands of the Irish government beyond even what that government considered necessary for its authority, and the preservation of the public tranquillity? He had been surprised at hearing from his hon. friend, that a whole province of Ireland was now in a state of insurrection. He believed it was no such thing. In fact, they themselves had admitted that, owing to the application of the Peace Preservation bill, the country had been restored to tranquillity. Under these circumstances, he conceived that no case had been made out for such an enactment, and he should therefore vote against the motion.

Mr. *V. Fitzgerald* maintained the expediency of the proposed inquiry, although it appeared to be resisted by the combined

parties in the House. His right hon. friend, who had made such an impression on the House by his eloquence, had said that it was proposed to renew the Insurrection act. That was not the proposition before the House. Many who voted for inquiry might oppose the Insurrection act, or only agree to it if stripped of the objectionable and severe enactments on which his right hon. friend had descanted. The province of Connaught had been not merely disturbed, but in a state of rebellion. Regular battles had been fought there between the insurgents and the king's troops. It was quiet at present; but it was a dreadful tranquillity, occasioned by pouring in a large military force. It was not his wish, or the wish of those who supported the motion, to enforce measures of coercion; but he thought they had a right to ask parliament to investigate the situation of a country in which rebellion had so lately raged. He denied that the Peace Preservation bill was a substitute for the Insurrection act, and reminded the House that Mr. Grattan, for whose talents and principles they had so great a respect, was among the number of those who approved of the Insurrection act when brought under the consideration of parliament. The object of his hon. friend's motion was not to revive that act in its full force, but merely to retain that part of it which gave the magistrates a right to institute domiciliary visits if the motion was to be followed up by any positive enactment.

Mr. *R. Martin* denied, that in the county of Galway there was any thing like a rebellion. In the baronies where his property was situated, every thing was tranquil, and he claimed their exception from the imputation. He opposed the motion, and recommended his hon. colleague to withdraw it, as the measure was unnecessary in the present situation of the country.

Sir *J. Newport* expressed his satisfaction at being able for once to support the conduct of the executive government with regard to Ireland. He begged leave to remind his right hon. friend, that though Mr. Grattan had supported the Insurrection act generally in the then state of the country, he had repeatedly divided the House on that very clause of domiciliary visits to which it was now proposed that the act should be limited.

Mr. *Foster* contended for the necessity of increasing the powers of the magistrates, and alluded to the beneficial results of the Insurrection act when Ireland was in a state of disturbance, as a proof that some modification of it would be attended with advantage at present. He thought no plan could be better calculated to secure the tranquillity of Ireland than that which had been proposed. In the county he represented, nocturnal meetings were held, and recourse had even been had to assassination, where the unfortunate victim was suspected of having revealed the projects of the conspirators. He was firmly of opinion that the introduction of the bill would be very beneficial.

Lord *Castlereagh* said, that no man had a greater respect for the opinion of the right hon. gentleman who had just sat down than he had, because from his great local knowledge and experience he might be considered competent to form a correct judgment. He must, however, deny that there was any thing in the present state of Ireland to justify the introduction of such a measure under any modification. If Ireland was really in such a state as had been described by his right hon. friend (Mr. V. Fitzgerald), he could not help thinking that he was rather tardy in not coming forward until now that tranquillity had been restored under the authority of the law of the land. The Insurrection act was not a measure to be adopted upon a precautionary principle; it required the existence of insurrection to justify its introduction. It was, in fact, like the income tax, a measure, which, if adopted at a proper time, and with proper regulations, might be attended with the best effects, but which ought never to be introduced without the existence of an adequate necessity. Ireland was now in a tranquil state; and he thought it would be at once impolitic and uncalled for to select a moment of public quiet to bring into action a measure, the spirit of which was agreed, upon all hands, to be repugnant to the constitution, and which could only be warranted by an adequate state of public disturbance.

General *Hart* wished his hon. friend would withdraw his motion, as it would only tend, if carried, to make the Irish people believe they were not looked upon as a portion of the British empire. Conciliation would do every thing for Ireland: it would promote the union of the two countries; and he was happy to hear

that such a system was to be acted on in its future government. Gratitude was a term which it was said could not be found in the Irish language; but it was a sentiment, he was sure, that could be found in every Irish heart. The government had just extended to the people of Ireland a measure to relieve their commercial distress, and when they had done this with one hand, they ought not with the other to tell them they were to be subdued by a military force.

The motion was then negatived.

HOUSE OF COMMONS.

Thursday, June 29.

FEMALE OFFENDERS WHIPPING BILL.] Mr. *Chetwynd* rose to move for leave to bring in a bill to abolish the punishment of Whipping Female Offenders in any case whatever. The House was aware, that by an act of the year 1817, the system of public whipping of females had been wholly exploded; but he was surprised that the private whipping of females had been by that measure permitted to continue, looking on it as he did as objectionable, or even more objectionable than the other. It might be said, in defence of its continuance, that it was necessary for the sake of example; but, on the other hand, as the infliction of the punishment was private, it was in the power of the gaoler or other superintendant to render it the most excruciating torture possible, or a mere matter of form; and this alone he thought a decided objection to it. With respect to the public whipping of females, he was of opinion that no exhibition could be more revolting to the feelings. The act to which he had alluded only abolished the punishment of the public whipping of females; but if the House would agree with him, they would go much further. His intention was to move for leave to bring in a bill to repeal that act, and substitute other provisions for the more effectual prevention of the whipping of females; and the object of it would be to prohibit that practice, not only in the cases already provided for, but in work-houses, houses of correction, lunatic asylums, and other places for the reception of lunatics. If, therefore, the House should be of opinion that it should in no case be permitted, he should humbly move for leave to bring in a bill to abolish the punishment of whipping female offenders in any case whatever.

Leave was given, and the bill was brought in and read a first time.

PARGA.] Lord *John Russell* rose for the purpose of submitting his promised motion relative to the production of a copy of the memorial presented by a native of Parga to the secretary of state. He was perfectly aware, that at the present time of the year, so near the conclusion of the session, and in the present agitated state of the public mind, it was extremely difficult for him to engage that attention which he could wish to circumstances occurring in a distant country, and not at all connected with that one paramount and domestic object which at present entirely occupied the public mind; but at the same time, he felt it his duty to urge this momentous subject, as one well-deserving the attention of parliament; and he thought that they were bound to give to the people of Parga that protection, which was not only a valuable right, and one to be extended, in such a case, of all others, but which could alone be their safeguard from the further continuance of those abuses and that oppression under which they at present laboured. The House would not expect that he should now enter into a detailed view of the question as to the cession of Parga. Would to God that he could enter into it with such effect as to be able to induce the House to commiserate the fate, and to relieve the situation, of a wronged and gallant people! Notwithstanding all the attempts which had been made by an anonymous writer to colour the transactions which had betrayed them, and to gloss over the counsels which had achieved their ruin, he thought the general opinion of mankind would be, that this was a case of as notorious treachery and as grievous injury, as any that had ever yet occurred in the world. And what had been the consequence, as regarded our own reputation? Our enemies always alluded with extreme anxiety to the case of Parga, as an instance of our acquiescence in oppression, and our desertion of the cause of freemen; and they reproached us with this fatal inconsistency—that we, who for ages, and throughout protracted wars, had stood forward as the champions of the rights of nations, were content, when the enemies of the Parguinotes required their submission, and the surrender of their rights, to act in a very different character, and upon principles contrary to those on

which we had hitherto unsheathed our swords.—The noble lord then briefly stated what had been the treatment which Parga had received upon the occasion of the recent cessions; and observed, that although by a former treaty with other powers, in 1800, it was stipulated that she should preserve the free exercise of her religion, that condition was broken in the very first war that ensued between Russia and Turkey. In the treaty of 1815, by which the Ionian Islands were ceded to us, no provision was made for Parga; and therefore it had been said, that the Parguinotes were excluded from the operation of that treaty. But it had been replied, and very justly, that because the treaty of 1815 alluded to that of 1800, therefore Parga was entitled to the benefit of it. The Parguinotes said, "At least let us have some security that our rights, our property, and our religion, are not to be sacrificed to the Turks." The same anonymous writer turned round upon this request, and had endeavoured to show that neither by the treaty, nor in equity, were they entitled even to these. The property which a treaty had intended to secure had been ravished from them—the religion which it had been stipulated to preserve had been violated—and the bulwarks, the safeguards, attempted to be set up, had been swept away. Now, the property of these Parguinotes, which was so given up to the Turks, was estimated, by the writer in the Quarterly Review, at 300,000*l.* Let the House observe the monstrous injustice which had occurred in this part of the transaction: the buyer was permitted to estimate the property, while the seller was denied that right. The Turks were allowed to make an estimate; that privilege was refused to the Parguinotes. In the first instance, the sum of money at which their property was estimated by the British consul was 277,000*l.*: the Turks, as matter of course, estimated it at very considerably less; and the estimate subsequently transmitted by sir Thomas Maitland, was of no greater an amount than 150,000*l.* After the preliminary valuations were completed, and the sum thus diminished, the Parguinotes were obliged to accept payment in the Turkish alloy. This arrangement being concluded, the unhappy people wished for some spot of ground where they might erect a new town; but the place assigned for them was so barren and unpromising, that they were unable to use it. Their chief anxiety had been to be enabled to live in tranquillity under a just government.—The noble lord here introduced a passage from the rev. Mr. Eustace's work, in illustration of the real state of Parga; he afterwards alluded to some parts of sir T. Maitland's dispatches, observing, that that officer, as high commissioner, was placed in a very difficult situation: he possessed great power at the head of what was called the constitutional government, and was furnished with a large foreign force to suppress discontent or rebellion: he was a sovereign, without the usual checks to which even monarchs were subject; and might be considered, in some points of view, a greater man than the king, from whom he received authority. In the exercise of his powers, sir T. Maitland had taxed the people of Santa Maura very heavily, having obtained the consent of the senate, appointed by himself; but the approbation of the House of Commons of the Ionian Islands seemed to be a trifle he had entirely disregarded. The right hon. the chancellor of the exchequer might, perhaps, obtain a useful lesson of finance by listening to the plans adopted by general Maitland. He had taxed not only wine, oxen, and other ordinary commodities, but he had fixed upon one that in no other country, from the earliest times, had been subjected to an impost—water. He had required the payment of a dollar per month for every well or fountain. Even in this much-taxed country of England, such an expedient had never been resorted to. In this way the high commissioner had asserted that there was a larger surplus of revenue this year than at any former period, notwithstanding he had given salaries to some officers never before paid, and had doubled and trebled the emoluments of others. Besides, when he spoke of a surplus, he seemed to have forgotten the large sums he had received from this country, and voted by the British House of Commons, for the maintenance of his authority. His lordship was willing to allow that the government of sir T. Maitland might have been beneficial in some respects. He was an able and efficient officer; but it was very unfit that any man, however qualified, should be erected into a sovereign so despotic. His conduct regarding corn had been perfectly orthodox; he had taken the whole subsistence of the island of Corfu into his own hands. It might be

very true that formerly a few merchants monopolized the trade in grain; but it did not follow that on this account it was fit that such an advantage ought to be seized by the executive authorities. Having referred to certain opinions expressed by sir T. Maitland on the subject of reform, and to complaints made against him and transmitted to Petersburgh, his lordship concluded by moving for the copy of a memorial presented to the secretary of state for the colonial department, by a native of Parga, and for certain copies of or extracts from the dispatches of sir Thomas Maitland relative to Parga.

Mr. *Goulburn* congratulated the House, that after two or three years of misrepresentations, invented with art and circulated with industry, the time was not far distant when the documents to be laid upon the table of parliament would lay the whole case regarding Parga fairly before the country. The House would then be able to judge whether the resignation of this island was, as had been asserted, an act of grievous treachery, or whether, on the contrary, it had not been inevitable, if any regard was to be paid to positive and distinct engagements. The whole of the speech of the noble lord afforded the strongest confirmation that he himself entertained some doubt upon the question. If the case of Parga manifestly and indisputably reflected disgrace on the British government, would the noble lord have thought it necessary to wander about in search of subsidiary matter not really and fairly connected with the point at issue, but relating to the whole government of the Ionian islands? The talents and dexterity of the noble lord would not have been so exerted, had he not been sensible that he must find something or other to bolster up a bad case. The noble lord had alluded to certain anonymous statements recently published regarding Parga but he gave the noble lord credit for being unconnected with other anonymous statements elsewhere printed, which had led to that refutation. He maintained that the British government had not restored Parga to Turkey, without being fully satisfied that the latter had an indisputable right to the island; and he proceeded to prove his assertion by reference to the treaty of Campo Formio, by which it had been first made over to France, and subsequently relinquished to Turkey. The war between France and the Porte broke out in 1798, and the joint fleets of Russia and Turkey soon after took possession of the Ionian islands. The treaty of 1800, which followed, was one of temporary distribution, not of final cession; but not long afterwards, namely, in 1801, the Ionian islands, including Parga, were given in sovereignty to Turkey, with, however, a distinct government of their own. This amounted to a direct transfer, and the contract was as complete as any that had ever occurred between two nations. In 1806, Russia declared war against Turkey, and conquered Parga and the other possessions of the Porte on the Albanian coast; but when peace was subsequently made, the integrity of the Turkish dominions was fully recognised. There was nothing, therefore, to warrant Great Britain in assigning the rights of sovereignty over Parga to any other power than Turkey. It was very true that in the treaty formed at the Congress of Vienna no mention was made of Parga; but this was not an accidental omission, inasmuch as Turkey being no party to the negotiations, it would have been most extraordinary if she or her dependencies had been introduced into the treaty. The very engagement under which the British troops had entered Parga prevented this government from keeping possession of it; and he denied most positively, that there was any understanding that it should remain in the hands of this country. He had searched all the papers in the colonial office, and could find no document relative to any authority given on the part of this government to lead the inhabitants of Parga into a belief that they were to remain under the protection of Great Britain. He had then written to sir James Campbell, the commanding officer on that station, for the purpose of learning whether he had directed any subordinate officer to make such a communication, or to hold forth such a prospect. The answer (which sir James Campbell did not write, for the state of his health disabled him, but which he dictated) was, that he had authorized no person to enter into an engagement or to give any assurance to that effect. The course which government had to pursue, therefore, was distinctly marked, and could not be mistaken. It was a course of duty and a path prescribed by the letter of an express stipulation with another power. He was sure that, whatever difference of opinion might prevail, on the question of the general policy of our treaties with the Porte, no honourable mem-

ber would deny the necessity of our faithfully performing the engagements which we had contracted. With regard to the mode of restoration, and the circumstances under which that proceeding had been conducted, he only begged that, before any gentleman formed an opinion, he would carefully consider what course it was practicable to adopt. As far as the treatment of the Parguinotes by the Turkish government was in question, they had not complained of it, nor had any of those inconveniencies or oppressions, of which so much was said, been experienced during the six years of their dependence on that state. Parga, it must be recollected, stood in absolute need of the protection of some foreign power; she had not within herself the means of support or of self-defence for a single week. It would have been most impolitic in the British government to have embarked in any guarantee which it was not prepared to maintain against Turkey. But at the same time that it was announced to the inhabitants that the island itself was to be transferred to Turkey, a declaration was published, that those who were averse to the new government would be permitted to retire. The only question then was, whether the Parguinotes had received the *bonâ fide* value of their property, on their accepting the offer of retiring with their effects. Notwithstanding all that had been urged on this point, he was satisfied that, if the documents were attentively perused, no doubt would exist that adequate compensation had been afforded. These would show clearly, and beyond all dispute, that the Parguinotes had received full value for all which they possessed. He well knew that their own estimate amounted to no less than 600,000*l.*—an immense value, when it was distributed over one town, and divided among 2,760 persons. It was impossible to believe that this general valuation of their property was correct. He would also draw the attention of the House to the circumstance, that the Parguinotes had not been left like other people to the chances of private purchase, but that the government had taken upon itself to pay at a just valuation. The compensation actually afforded exceeded the limit fixed by the individual who had been most anxious to defend their interests. He trusted, therefore, that the House would not be disposed to put any faith in the correctness of the estimate which had been alluded to by the noble lord. So different were the valuations which had been made, that one amounted to 50,000*l.*, and another to 280,000*l.* The House would recollect, that the value of property could not be measured by any simple rule, but depended not only on the character of the government, but on many other fortuitous circumstances. To swell it in this instance beyond the limit which had been fixed would, he was persuaded, be to err as much as it would be to take the annual produce of an estate in the West Indies, cultivated by the labour of slaves, and assign to it the same number of years purchase as to landed property in England. The Parguinotes had no right to expect the value of their land, when they were informed by the governor of the Ionian islands that a tract of land was to be assigned to them, and means furnished for building churches. The documents on the table presented abundant and conclusive evidence of the fitness of the place to which they had been removed. Exact descriptions had been given in of every species of property; no general or average calculation had been relied on; and although the Parguinotes complained that the sum allotted was unequal to the claims of justice or to their rights, he had not met with a single instance of an individual objecting to the smallness of his own particular share. The noble lord had adverted to another point, touching the supposed harshness of the instructions sent out to sir T. Maitland, and to his harshness in executing them. It had been urged, that the conduct of sir T. Maitland was not to be justified by any circumstances. The substance of the instructions, however, was, that the British government would not agree to support the labouring classes in idleness, and that as soon as they reached their new abodes they must depend on their own resources. What other course, he would ask, was it open to government to pursue, unless it was prepared to support almost the whole population of Parga for an indefinite period? He was not then in a situation to enter upon a defence of the whole administration of sir T. Maitland, but he would say that the taxes he had imposed were fully justified by the exigencies of the case. That officer had abolished the monopoly of corn, which he found in existence on his arrival, and established a free trade. It was not until compelled by necessity that he re-enacted the mono-

poly, which he could only do by taking it into the hands of government. At the time when this proceeding was adopted, there were not more than seven days' provisions in the place. As to the other complaints against that distinguished officer, he might safely rest the answer on his general character through a long course of service; and he was sure that the more his conduct was examined, the more it would be found to deserve approbation. He should be ready to enter at any time into this discussion, and was confident that when the whole subject was before them there would be but one opinion respecting it.

Sir *Robert Wilson* said, his opinion had always been, that it was impossible, considering the situation of Parga, for us to keep possession of it. That possession must be deemed as offensive to Turkey, as Dover in the hands of the French would be to us, or Calais in our possession to the French. What he complained of and lamented was, that England should have charged itself with the odious responsibility of the cession. When that proceeding, however, was adopted, the most scrupulous care should have been taken to secure to the inhabitants the full value of their property. There was at present every reason to believe that the Parguinotes were dissatisfied; that they did not think they had received the protection which had been promised to them; and that our character had suffered in the eyes of Europe.

Mr. *Hume* observed, that, feeling as he did for the condition of a people who had been compelled to remove from their native homes, he hoped the House would excuse him for offering a few observations on the subject. He [illegible] that Parga stood in need of some protecting power, and had been for a long time dependent on the Venetian republic. The treaty of Tilsit had, however, as he conceived, distinctly conveyed it by name, with the other Ionian islands, to France. It afterwards fell into our hands by conquest and the treaty of 1815. This at least was the general understanding; and the impression of the Parguinotes themselves certainly was, that they were to share in the fate of the other islands. With respect to the officer alluded to by the hon. gentleman opposite to have raised expectations in the minds of the people of Parga which could not fairly be fulfilled, he must say, that he had the pleasure of being acquainted with colonel de Bosset, the officer alluded to, when he commanded in the island of Cephalonia; that there was not a more honourable or well-deserving officer under the Crown; his plan appeared the fairest, namely, to value the rentals for a certain number of years, and fix the price of each person's property upon that principle. Besides the roads, bridges, and other improvements of the same nature, which colonel de Bosset caused to be made in Cephalonia, it was that officer who had the honour of extirpating the unfortunate practice of homicide, which so generally prevailed in that country previous to his arrival; and he would rest the defence of that officer on the question, whether one out of one hundred of the inhabitants would refuse to bear testimony in his favour? He was well convinced that colonel de Bosset's conduct towards the inhabitants of Parga would reflect as much credit as all his other acts in the Ionian islands. As to the conduct of sir T. Maitland, some further explanation was, he thought, desirable. It could not be denied, whatever might have caused the alteration, that before he went there all was peace and unanimity, and that complaints had since become general. It did not appear to him that the valuation of property at Parga had been made on a just principle; it had been made according to the standard at Corfu, which was as inapplicable as it would be to appreciate property in this country by its value in France. The first estimate which had been founded on annual rental was, in his opinion, the correct one. Another complaint was, that the inhabitants of Parga had been kept in ignorance for a considerable time of the mode in which the estimate was drawn up, and of the principle upon which the valuation was conducted. Two valuations had, he believed, been made, but no decisive information had been given on the subject. Whatever those valuations might have been, general Maitland took no notice of them; but in his proclamation, of the 19th of March, declared that only a sum of 150,000*l.* was to be distributed amongst the inhabitants. What he wished to know was, whether the valuation was 120,000*l.*, or 150,000*l.* or 270,000*l.* Such a proceeding, as the noble mover had said, was rather a harsh one to be employed, when these unfortunate individuals were forced from their homes. But even from this 150,000*l.* a deduction was made,

on the ground that the payment should be in Spanish dollars—in good current money. The payment was, however, made in bad money, but the deduction was not, therefore, relinquished. A few months ago, 48,000*l.* were deducted from the gross sum of 150,000*l.*, to cover different expenses, and the loss by exchange. Now, though this large deduction was made, instead of being paid in good money, as they had been promised, five-sixths of the whole sum was in reality base money. He understood that general Maitland had since offered to restore this 48,000*l.*, provided the Parguinotes would give up all farther claims. Last year ministers stated the island of Marganese would be given up to the Parguinotes, and this place was described as a fine fruitful territory, where they might easily build a town. He, however, had been there, and it was nothing but a heap of stones, where it would be almost impossible to form a garden. The portion of Corfu which was appropriated to the use of these unfortunate people was, he believed, equally barren. The whole of this transaction he viewed as a stain and disgrace on the character of the British government. It was so considered by foreign nations, and by the great body of the community here. All that could be done then was, to make a proper recompense in a pecuniary way to these people. If the valuation had been too low, or if any impediment had taken place in adjusting the settlement; in the one case, the valuation ought to be revised, in the other, that which was due to those people should be promptly paid.

Mr. *Goulburn* denied that the Parguinotes were not paid the whole sum promised them.

Mr. *Hume* said, he rested on the proclamation of the governor of the 19th of June, stating that 113,000*l.* only should be paid.

Mr. *Goulburn* said, that that circumstance admitted of an explanation.

Lord *J. Russell,* in reply, said, that as the inhabitants of Parga had surrendered themselves on the understanding that they should follow the fate of the Ionian isles, he still thought faith had not been kept with them. If the great powers at the congress of Vienna had acted as they professed, on the principle of restitution, he should have been satisfied. Venice would then have been restored, and Parga would have been put under the protection of Venice. But they had destroyed Venice, they had destroyed Parga; they had divided Saxony and destroyed Genoa. So much was their profession of a return to the ancient state of things attended to.

The motion was agreed to.

Mr. *Maxwell* presented a petition from Benjamin Wills, honorary secretary to the provisional committee for the encouragement of industry, praying that parliament would take some steps to provide the people with proper employment, and thus prevent them from falling into that state of degradation which must inevitably ensue, if they were not able, by their labour, to support themselves.

Cotton-Weavers.] Mr. *Maxwell,* in rising to move for a select committee to inquire into the nature of the distress by which the Cotton Weavers were affected, and to consider whether there was any practicable mode by which assistance could be extended to them, felt it necessary to make a few observations explanatory of his reasons for bringing forward a partial motion. When the whole community were suffering, and the manufacturing districts were plunged in such a state of misery as was now presented—when individuals were unable to procure employment, and found it wholly impossible to maintain themselves—he felt that he should have grossly neglected his duty, if he had not before the close of the session called the serious attention of government to the distress that prevailed. If they could not do away that distress altogether, they might, perhaps, devise some means by which it might be alleviated. The table had been covered with statements, both from the workpeople themselves, and from the magistrates, detailing to that House and to the government, the extent of the misery that prevailed. They admitted that great irritation existed; but they traced that irritation to the severe privations to which the lower classes of the community had unfortunately been too long exposed. He was astonished that ministers, who had extended relief to particular individuals, and even to the throne itself, should have overlooked these frequent calls. The distress which they had endeavoured to avert could not for a moment be placed in competition with that which he had described. When a motion for a committee to consider the state of the manufacturing population was

submitted to the House it was refused; and yet he conceived it might as well have been acceded to since, if measures were not devised for the relief of that population, it would at least have shown that parliament were ready to listen to their complaints. They were told by ministers that no reform was required—that they anxiously considered by what means they could diminish the pressure of distress, which weighed down the working classes; but, in his opinion, the greatest proof that could be adduced in favour of reform was the constant refusal of inquiry. When 25 per cent had been added to the taxes, in order to meet the interest of the national debt—that offspring of the most wanton and lavish expenditure that any country had ever witnessed—ought they not to inquire whether some means might not be discovered by which an addition might be made to that industry on which those grievous burdens were imposed? While the master manufacturers, and other classes of society, were rioting in every species of luxury, the poor operative labourer was placed in a situation degrading to the character of the country. The House ought to listen to their complaints, and prove the fallacy of those arguments which were founded on the general feeling that parliament paid no attention to the people. Let them look to the cotton trade. They pursued it in vain. It was receding from them, like an *ignis fatuus*. It was growing less and less every hour. Many individuals in that house treated circumstances of this kind with the utmost coolness. They said it was no use to interfere. Things must find their level. That was as much as to declare, that if no means at present appeared by which the people could live in comfort, therefore none should be sought, and all should be left to chance. Notwithstanding that feeling, it might perhaps be shown to a committee, that means did exist by which the industry of the working classes could be rendered efficient, not only to support themselves, but to augment the revenue of the country, or to produce even a better effect—the diminution of taxation, by spreading it over a larger surface. For that reason it was that he wished to obtain a select committee. There was at present a portion of machinery which wholly escaped those burdens that were imposed on machinery of a different kind—that kind of machinery, one-half of which consisted of animal life. There was a machine called "a power-loom," which machine, even now, as well as during the war, was met in competition by the simple loom of the individual weaver; but with this great advantage—that all the goods which the power-loom produced were exempt from the drawback necessarily created by the consumption of those articles on which the weaver was compelled to exist, and on which he paid a heavy rate of taxation. As it was rather an abstract question how far the two species of machinery should be placed on a level, he wished to have a committee to investigate it; and to consider whether the capital of the poor man, which consisted in the labour of his two hands, must bear the burden of taxation, since those articles, without which he could not exist, were taxed; while the large capital, of the wealthy manufacturer, which he invested in a machine, was suffered to escape any contribution to the revenue. He did not wish to do away machinery, from which incalculable benefits had been derived; but he wished to see whether the advantages which had been produced by it did not arise in a great degree from its being exempted from the consumption of articles which the poor weaver was obliged to use, and on which heavy taxes were laid. It was a matter of serious consideration whether capital, shut up in machinery, should be useless to the revenue—when, if it were not so shut up, it would, according to the laws of nature, be expended in animal labour. There was another point well worthy of consideration—he meant the laws relating to combination amongst the working classes. The wealthy part of the trading community possessed the means of combining, to an immeasureable extent, for the purpose of depressing the wages of the labourer, while the operative manufacturer was liable to punishment if he attempted to raise them. There should certainly be no distinction of that kind between the wealthy and the indigent. Another point to be considered was whether some means ought not to be taken, by way of experiment, to try the practicability of removing some few of the working classes from avocations by the pursuit of which they could not obtain subsistence, and placing them in other situations where their industry might be useful and productive. When, however, individuals brought forward plans of this nature, they were generally refused a committee to investigate

them. They were laughed at, and treated as people of feeling hearts, but of feeble understanding. This, he thought, was a very poor recompence for those who devoted their time to such praiseworthy objects. Sir John Sinclair, Rowcroft, Owen, and Wills, were not perhaps the first names amongst the aristocracy of the country; but they had considered how the situation of the people could be ameliorated, and were therefore entitled to respect. They wished to rescue the people from that situation which was likely to make them bad subjects, and to sink them below the level of human nature. The endeavour that had been so long persisted in to undersell other markets had no other effect but to overwhelm every class of the community by a weight of poor's-rates. Of the different plans which he had seen—and he had probably seen and examined more than the right hon. gentleman, because his feelings had been more excited on the subject—he thought the application of public money for providing lands to those who could obtain no employment at their looms one of the best. If exchequer-bills were so applied, instead of expending public money on canals, along which there was no commerce to pass, or on harbours frequented by no ships, the benefit would be greater and more obvious. Ample security could be given to government by mortgage on the lands. The labourers thus employed would pay 10 or 12 per cent; and they would improve the revenue by the consumption of exciseable articles; they would at the same time relieve other labourers at the looms, by increasing their employment, and raising them from their present miserable and degraded level. He should reserve his opinions on other points—opinions which were the result of much attention and time for the committee, who could more deliberately consider the subject. He should now simply implore the House to consider how far their conduct had been calculated to allay the unhappy spirit which was lamented in the speech from the throne. It appeared to him doubtful, whether it was economical or wise to rear barracks, raise additional troops, fill up battalions, call forth volunteers and yeomanry corps at an enormous expense, as a means of allaying the spirit caused by distress. Not less than 400,000*l.* had been expended in this manner last year, as a reply to the cry of hunger and distress. He was not finding fault with this expenditure, for ministers were responsible for the security of the state, but it would have been far more agreeable to him if this sum had been applied to the relief of the distressed—if that House and his majesty's government had manifested a deep feeling for the distresses of the poor. Subscriptions had been raised for Germans and Portuguese; relief had been given to French refugees and American loyalists; money had been lavished to embellish Henry the Seventh's chapel, which had better be left in the rust of antiquity than be covered with modern garnish; money had been even voted for improving the city of Dublin. Those expenses struck him, not as improper, but as injudicious. He submitted to the right hon. gentleman opposite, if his ingenuity in finding new subjects of taxation was not exhausted, whether it was not possible to tax foreign cooks, French lacqueys, and Swiss porters, for it appeared from the Alien-bill that they were very numerous in this country. Another gross anomaly was, that a great number who possessed much property in this country, lived out of the country and thus injured the industry and revenue of the country. Others who had not much property lived in other countries, and drew pensions from this country, as half-pay officers. Their income would not support them so well in this country, and it might be impolitic to prevent them from leaving it; but relief to severe distress ought to be sought by risking even an impolitic measure. His object in making these observations was to submit to the attention of parliament sentiments which were circulated, canvassed, and felt elsewhere, especially in that part of the country from which he came. If he should not succeed in obtaining a committee, he should at least have given ministers an opportunity of explaining conduct which appeared unintelligible. He respected ministers, and some of them he had the honour of calling his friends; but while he had a seat in that House he should tell them freely what he thought of their conduct. Was it consistent with the harmony of the universe that one class of men should want the necessaries of life, while another abounded in every luxury and superfluity? If the right hon. gentleman believed in the existence of a Supreme Being wise, powerful, and benevolent—if he had any feeling of humanity—if he possessed any part of the spirit of that religion which we all professed, he

would ask whether it was consistent with his ideas of the grand attributes of the Supreme Being that his moral government of the world should suffer one man to sink below the state for which all men had been intended, and another to rise higher almost than to be susceptible of human feeling or rational enjoyment? There was no man but must feel a lively anxiety to know how long the institutions of this country were to remain; it was not to be disguised, that the people in all parts of Europe looked towards America and her institutions with sympathy, whilst they felt nothing but disgust at the expenses of their own governments. He did not say that those expenses had not become necessary, but it was surely alarming to see taxation arrive at such an extent as to endanger the existence of our institutions both in church and state. If it should be thought that these were strong observations, he answered that he made them in order to show what feelings he entertained in common with multitudes of others throughout the country. He was in a very different situation of life from many who entertained those views and his opinions might therefore be thought of less importance; but he implored his majesty's ministers to consider what effect such sentiments must have upon those who were in the very extremity of distress, and to whom it was little matter whether they were to live or die. The hon. gentleman concluded by moving, "That a Select Committee be appointed to inquire into the means of relieving the Cotton Weavers, which may be attempted without injury to the community."

Mr. *Robinson* observed, that it was tolerably well known he was no advocate for parliamentary reform and he was the less so, because he was unwilling to convert the House into a college of disputants. But his hon. friend seemed disposed, from the variety of subjects to which he had adverted, to render the committee he proposed quite an arena for disputation, and the very first point which he would have this committee discuss was an abstract idea. That a committee might be useful and essential in collecting and arranging facts and information he was ready to admit, but this was, he believed, the first time it was proposed to refer to a committee the discussion of an abstract idea. The hon. member's professed object was, to benefit the cotton manufacturers, but how that was to be done by such taxes as he proposed upon foreign servants and absentees, he was at a loss to imagine. With respect to the absentees, many, he believed the great majority of them, were obliged to resort to other countries for cheap living, in consequence of the depression of their circumstances; and would the hon. member seriously press for an aggravation of those circumstances by the imposition of an additional tax? Would parliament consent to such injustice, or, he would say to such inhumanity and impolicy? The hon. member deprecated luxury, for which he (Mr. R.) was certainly no advocate, as a moral good; but he apprehended it might easily be shown in various ways, such as the number of servants, or the general amount of expense among the rich, that the abandonment of luxury would tend rather to aggravate than to relieve the distress of the labouring classes. In what the hon. member had advanced on the means of relieving the distress of the manufacturer, he professed to echo the language of his constituents, and this furnished an additional argument against the proposed committee, the appointment of which would only serve to propagate delusion, without leading to any practical good, or even to any temporary palliative for the evils complained of. At all events, from the variety of matter which the hon. member proposed to submit to the committee, in conjunction with his abstract ideas, he could hardly suppose it would be thought possible, at this period of the session, to make any progress in such a complicated investigation. On those grounds, then, he felt it his duty to move the previous question.

Mr. *Ricardo* said, that he conceived the duty of government to be, to give the greatest possible development to industry. This they could do only by removing the obstacles which had been created. He complained therefore of government on very different grounds from the hon. mover, for his complaint was against the restrictions on trade, and other obstacles of that description, which opposed the development of industry. The recommendations of the hon. mover were inconsistent with the contrast between one class and another. If government interfered, they would do mischief and no good. They had already interfered, and done mischief by the poor laws. The principles of the hon. mover would likewise violate the sacredness of property, which constituted the great security of society.

Mr. *Lockhart* opposed the motion, conceiving that its adoption would only serve to hold out false hopes, which might probably induce the agriculturists and other classes of the people whose distress was quite equal to that of those for whom the hon. mover was an advocate, to make similar applications to that House. He particularly deprecated the hon. member's proposition to tax absentees, for such a tax would most probably urge those to take away their capitals from this country who at present only spent their incomes in other nations, and the capital once taken away was by no means likely to return. He disagreed with the plans of spade-husbandry, and others, which had been proposed, because they all appeared on a nearer view to be futile. The House at any rate could not grant a committee until some of those plans should be found effectual, by the experience of people out of doors. Besides, if the House granted a committee to the cotton weavers, the agricultural labourers, and almost all others, would have an equally good claim to consideration, and would scarcely fail to urge it. Time alone and patience, which he doubted not the people would show, could cure the difficulties under which they laboured.

Mr. Maxwell, after a short reply, consented to withdraw his motion until the next session. The motion was accordingly withdrawn.

HOUSE OF COMMONS.

Friday, June 30.

METROPOLIS TURNPIKE ROADS BILL.] Mr. Sumner presented petitions from certain Trustees of Roads in Kent and Surrey against the Metropolis Roads bill. The hon. member hoped that the bill would be read a second time, printed, and allowed to stand over to next session.

Mr. *Davies Gilbert*, in alluding to the matter of the petitions took occasion to offer a few remarks upon the subject of turnpike-roads generally. Every hon. gentleman must be aware of the national importance of a good and perfect system for the regulation and management of roads. When he mentioned that, in the instance now more immediately before the House, an extent of no less than 136,000 acres was appropriated entirely for public roads, they would at once see how highly desirable it was that their construction and arrangement should be conducted upon the most scientific principles, whether they considered the surface which was so to be prepared, or the immense expense of its preparation. Upwards of 1,500,000*l.* were annually collected for the repairs of turnpike-roads, by the trusts; and about 1,500,000*l.* more from the towns and villages of the country; in all 3,000,000*l.* It was about 100 years ago since the present system of turnpike-roads was first introduced; and the improvement in consequence was one which was perfectly marvellous. That system was founded on the equitable principle of making those who most used the roads pay for their repairs. The hon. gentleman observed, that the roads round London, as every one must have remarked, were, from the inefficiency of the small trusts for their proper management, the very worst in the kingdom. It was his wish to see the roads altogether put under the direction and management of certain commissioners [here he read some of those names which he intended to propose]; and he meant at the earliest possible period of the next session to bring in a general highway act of that nature. He entirely disclaimed any aspersions upon the character of those who held the small trusts; and alluded only to the contraction of their means.

Sir *M. W. Ridley* wished to know, whether the committee intended to propose any remedy of the grievance which was felt in the renewal of turnpike trusts, even for a limited period. The expense of such a proceeding amounted at present to 112*l.* in that House, and when the bill got into an office belonging to another place, the applicants were obliged to make the clauses of a certain length—he would leave it to the House to judge for what purpose [Hear!]. If no measure of the kind was proposed by the committee, he would introduce a motion on the subject early in the next session.

Ordered to lie on the table.

KING'S MESSAGE RESPECTING A PROVISION FOR THE ROYAL FAMILY.] Lord Castlereagh presented the following Message from the King:

"GEORGE *R.*

"The King acquaints the House of Commons, that a part of the provision made by parliament for certain branches of his majesty's royal family, has ceased in consequence of the demise of his late majesty, and recommends to his faithful

Commons, to take the necessary measures to enable his majesty to grant to his royal brothers and sisters such annuities for their respective lives, as may be necessary to make their several allowances equal to the income which they enjoyed at the time of the demise of his late majesty.

G. R."

Ordered to be considered in a committee on Monday.

IRISH COURT OF CHANCERY BILL.] On the order of the day for the committal of this bill,

Sir *J. Newport* said, he meant to move a clause in this bill, which he conceived of great importance. It was one which would prevent Irish masters in Chancery from sitting in parliament, while they held such office. The duties of a master in chancery in Ireland were such, that if in parliament, either the one or the other must be neglected [Hear!]. The public duties which devolved on a master in chancery, ought not to be neglected to favour the ambitious views of any individual. The right hon. baronet proceeded to quote various authorities, among others, the lord chancellor of Ireland and the master of the rolls, in support of his statement, that the public business of his office required every moment which an Irish master in chancery could by possibility devote to it. One master in chancery had stated, that the fees of his office had increased in the proportion of five and a half to one. But being asked whether there was a proportionate increase of business? he answered "Yes, where I was formerly employed for one hour, I am now employed four or five." The lord chancellor was of opinion, that all the witnesses in matters going before masters in chancery, ought to be examined, if it could be done without injury to public business, by the masters themselves, but this being found impossible, the examination devolved on other persons. He would add another piece of evidence which he held to be conclusive. On the examination of Mr. Ellis himself the following question was put to him:—"Can you state the particular time the duties of your office occupy?" Answer—"The duties of my office require a regular attendance for ten months in the year; and there is to be performed more or less business every day in the year, if attended to." Now then this officer declared that the duties of his office, if attended to, would take up all his time; and it was clear that the faithful performance of those duties was incompatible with his attendance in that House as a representative. He thought the evidence was quite conclusive on the point; and he would under those circumstances, move "That it be an instruction to the committee, that they have power to receive a clause, providing against any master in the chancery of Ireland being elected into, or sitting or voting in the House of Commons so long as he shall hold such office."

Lord *Castlereagh* said, he entirely concurred with the right hon. baronet in his conclusion. If the office of master in chancery was not a judicial office, it yet so nearly pertained to a judicial office, that any time devoted to other avocations, to the injury of the business of suitors, would operate as an infraction of the duty of that office. The grounds on which a master of chancery in England sat in that House were different from those on which an Irish master in chancery could sit there. An English master in chancery might sit in that House without any inconvenience to suitors, and without the neglect of the duties of his office. He had no objection whatever, therefore, to the general principle laid down; but he understood that an election was now pending for the city of Dublin, in which a master in chancery was one of the candidates, and he thought that the clause proposed ought not to operate as an *ex post facto* law. He however felt that it ought to operate against any person holding that office from being hereafter elected.

Sir *John Newport* said, that if it was manifest that the duties of a master in chancery were incompatible with his attendance as a member of parliament, that officer ought not to be allowed to hold a seat in that House. Could any man doubt but that by his attendance in that House the duties of his office would be neglected? That officer was bound to attend ten months in the year in Dublin; he had sworn that it was necessary so to attend. Would any member attempt (if he took his seat in that House) to propose an address to the Crown to remove him? He saw no reason why the legislature in this instance should forego giving that protection to the suitors which they were clearly entitled to; he saw no reason why, in compliment to the officer in question, the business of the Court of Chancery should be delayed, or the suitors of that

court injured. In the event of the election of the officer in question, previous to the passing of the bill before the House, he might if he thought fit resign an office, the duties of which he could no longer discharge.

Mr. *Shaw* said, that the clause proposed would operate as a great hardship on Mr. Ellis, who was at present a candidate for Dublin. The election would possibly be over before he could receive any information as to the proposed law. The hardship would be not merely on Mr. Ellis, but on the citizens of Dublin. The present contest was one of the most acrimonious and violent that had been remembered for a long time in that city. There was more of party spirit and personal hostility displayed than had been exhibited on any late contest. It would be a great misfortune to the electors if, after closing a contention of that kind, they should be driven to a new contest, which would possibly be carried on in the same way. Mr. Ellis, when he offered himself to the electors, had no notice of the clause now proposed; he thought, therefore, that he ought to be exempted.

Mr. *Abercromby* begged to call the attention of the House to the subject upon which they were about to legislate. It had nothing to do with the Dublin election, but was in plain terms whether or no parliament would continue to afford suitors in the Irish Court of Chancery that protection to which the law had entitled them. Nobody had ventured to state that the office of a master in chancery and a member of parliament were compatible. The very gentleman whose case was supposed to be involved in the present consideration had himself given conclusive testimony upon that point. He had declared that the business of his office required his full attendance for ten months in the year. Could any man after such a declaration, and with a consciousness of the importance of the duties of such an office, require an exception to be made in favour of a gentleman who had himself shown the impossibility of making it with any sense of justice? The hon. gentleman opposite had asked the House, on behalf of the citizens of Dublin, not to accede to this clause. If he asked that on behalf of the citizens of Dublin, he (Mr. Abercromby) would ask for the clause on behalf of the whole people of Ireland, who, if it did not pass, would be deprived of the performance of those duties which they had a right to require from a public officer. Were the people to be deprived of the benefit of having indispensable duties performed, merely because Mr. Ellis wished to gratify his ambition? To pass the clause would entail no individual hardship; for no master in chancery had been a member of parliament since the Union. As to the *ex post facto* operation complained of, he must say, that he thought the complaint a little out of place; for this bill was not now for the first time brought forward; it was a measure long in contemplation for the regulation of the Court of Chancery in Ireland, and this was the first time when his right hon. friend could have introduced the clause, which was now complained of as if it had been prematurely framed to meet a particular occasion. It would be a dereliction of their duty if the House did not agree to this clause.

Sir *M. W. Ridley* could not help remarking upon the observation that this clause, if passed, would be productive of great inconvenience to the citizens of Dublin, by exposing them to a repetition of an election contest. To this he would answer, that there was no necessity whatever of their being so exposed; for if the election was concluded in favour of the gentleman alluded to, he could take his seat, and obviate all the inconveniences by the resignation of his office as master in chancery. To give him the option was no hardship upon him; he could either retain the seat or the office; he could not expect that he or any other public officer would be permitted to retain a situation the duties of which he could no longer perform.

Mr. *Fowell Buxton* begged to know from the noble lord, before he gave his vote, whether, if Mr. Ellis should be elected, the noble lord would advise his majesty to dismiss him from his office, as he had declared that it was incompetent for that officer at once to discharge the duties of his office and to sit in that House?

Mr. *Canning* said, he understood his noble friend to say, that the instruction before the House ought not to have the effect of influencing the election now pending. If Mr. Ellis were elected, the effect of the instruction might be to negative the return. His noble friend did not say that a master in chancery should not be incompetent to sit or vote in parliament.

Mr. Ellis might go through the election, and if he succeeded, it would be fair to leave him the option of resigning his office; but, at all events, the election should be considered good.

Sir *J. Newport* said, that the object of the clause was to prevent any person from being capable of sitting or voting in parliament so long as he continued to hold the office of master in chancery.

Mr. *Canning* said, that in that case there was no difference of opinion.

Sir *J. Newport* said, that the officer in question would not be allowed to sit or vote so long as he continued to hold his office.

Mr. *Canning*.—But the election will be good.

Sir *George Hill* said, that the effect of the instruction would be, to disqualify a gentleman from sitting in parliament, without any notice having been given to him of such a measure, and without any disqualifying law having previously existed. The object of the instruction, as explained by the right hon. baronet, was, to prevent Mr. Ellis from sitting or voting in that House [Cries of No, no!]. If he were wrong, he could be corrected, but he understood the resolution went to disqualify Mr. Ellis to sit or vote in that House, unless he gave up his office [Hear, hear!]. He would say that this was the first time pending an election of great expectation, that a measure was proposed in parliament to conclude that election. Was it the intention to dismiss Mr. Ellis, and to substitute Mr. Grattan in his place? Mr. Ellis was qualified in all respects to sit in that House. Extraordinary interest was excited at the election. Would the House disqualify an individual who might receive the favour of the citizens of Dublin? He considered such an act an outrage on the constitution, on fairness, and on candour.

Sir *James Mackintosh* said, he was at a loss to think how gentlemen could reconcile to any respect for the constitution—to fairness—to candour, or to common sense, the idea of enabling a man to occupy two places, which by his own confession, were absolutely incompatible. It was said that parliament had not given notice to the learned gentleman of the present measure; true, but he had given notice to the parliament that he could not possibly sit in that House without neglecting his duties. The right hon. baronet had said that there was a novelty about the measure. Yes, there was a novelty, in the first place, of disqualifying the present officer by his own testimony; the evidence out of his own mouth proving his incompetency. In the second place, it was a novelty to see the friends of that gentleman maintain his office against his testimony. Those friends impeached his testimony in order to preserve his office. If his evidence was true, if it was true that the duties of his office must necessarily detain him in Dublin ten months out of the year, would the House endure the idea of permitting a person to sit amongst them holding a judical office, the duties of which, if they believed his oath, required ten months of his attendance in Ireland in each year. The right hon. baronet had used very hard words. He (sir James) had another taste—he would rather use hard arguments and soft words. The right hon. baronet had talked a great deal about the constitution. This was an extraordinary appeal, considering the line of argument he had taken. He had talked of the election as being interesting to the public. But what did he (sir James) know of the interest, the violence, or the feuds of any party in Dublin—what did he care about them? Was any one of them prepared, in order to satisfy any party in that country, to establish by his vote so shameful, or rather so shameless a principle? Would any one call upon parliament to permit a gentleman to sit in that House, whilst the most pressing, and he would say the most sacred duties of society disqualified him? It would be impossible, even if all the passion and all the spirit of an Irish election found its way into that House, that any party or any faction could so thwart its proceedings, or darken its views. He did not wish to speak harshly, but this he would say, that so absurd, and so monstrous, and so unconstitutional an exemption, could not possibly be tolerated in that assembly.

Lord *Castlereagh* observed, that he understood there was but one opinion in the House, either as to the incompatibility of the two situations of master of chancery in Ireland and member of parliament, or as to the impropriety of disturbing an election now in progress. All that was desired was, that the individual now a candidate for the city of Dublin should be at liberty, if elected, to resign his office.

The *Chancellor of the Exchequer* suggested, that the object of the clause would be more precisely marked if the words of

instruction to the committee were confined to "the sitting and voting" of a person holding the office of a master in chancery in Ireland.

Mr. *Calcraft* thought that, although the right hon. gentleman's amendment might meet the circumstances of the case immediately in view, it would not provide a sufficient regulation for all future cases, in which the office in question was to disqualify in the first instance.

Mr. *Wynn* also observed, that the pending election would probably have terminated before notice was received in Dublin of the present resolution of the House. It should therefore, be made applicable to future cases.

The instruction was agreed to, and the House went into the committee.—On sir John Newport's proposing a clause to prevent any individual from being elected a member of parliament so long as he filled the office of master in chancery,

Colonel *Barry* opposed it, because it appeared to him to be levelled at an individual. The right hon. baronet had thought proper, at the present moment, when it was probable the individual alluded to was actually a member of the House, to introduce a clause personally affecting that gentleman. He did not complain of the principle of the clause, but he thought that an *ex-post factó* regulation ought not to be admitted. If agreed to, it would stamp disgrace on the proceedings of the House; and, though he might stand alone, he would divide the committee on it.

Sir *J. Newport* defended the clause. Mr. Ellis knew that he could not perform the double duties of master in chancery and member of parliament; why, therefore, did he set up for the representation of the city of Dublin? The present clause was forced upon them by his own act.

Mr. *Daly* observed, that the bill which had passed this House last year, and was thrown out in the Lords, was without any such clause as that now proposed. This circumstance proved that it was an *ex-post fasto* law to affect Mr. Ellis. He said this without any personal feeling in Mr. Ellis's favour, for he would, with all his heart, go over to Dublin to vote for Mr. Grattan.

Dr. *Phillimore* thought it would be a gross injustice to the suitors in chancery, if the same individual were allowed to act as master and member of parliament. The duties of a master in chancery and of a member of that House were totally incompatible. What, then, did the House resolve? They resolved that the member for Dublin should have the option of choosing the one situation or the other; than which nothing could be more just.

Dr. *Lushington* said, that Mr. Ellis being a master in chancery, had taken an oath faithfully to perform the duties of his office, to do which, according to his own evidence, it was necessary that he should be in Dublin during ten months in the year. They should not, by allowing Mr. Ellis to retain the two situations, put him under the temptation of neglecting the duty of the one or the other, which no honourable man would wish to be subjected to. Besides, were they to forget the public in this case? A master in chancery had important duties to perform; the management of bankrupts' affairs, &c. which required attendance from day to day; so that every hour he was absent in England was injurious, and might be ruinous to the suitors. If no such bill was before the House, he thought one should have been introduced to protect the chancery suitors of Ireland.

Mr. *Nolan* considered the clause an *ex post facto* law, and an act of injusticé of the deepest dye. Though Mr. Ellis had heavy duties to perform, his friends might consent to do them for him during his absence; besides, the months during which he was occupied might not be the time that parliament was sitting. It would hardly be tolerated, if this gentleman was in parliament, that a bill should be brought in to exclude him; yet he probably was by this time a member, so that the only difference was (and honourable gentlemen might make the most of it) that he was absent.

Mr. *R. Martin* meant to vote for the clause, which did not disqualify this gentleman from sitting in the House of Commons, if that were his wish. According to his oath, he could not fulfil the duties of the two situations; and, therefore, it was necessary that one of them should be given up. If a precedent were allowed in this case, the four other masters might also be returned to serve in parliament, and thus the whole business of the court of chancery would be stopped.

Mr. *Williams* said, if this clause went to exclude Mr. Ellis from the court of chancery, or from the House of Com-

mons, it would be unjust; but as it gave him his option to choose the one or the other situation, it was perfectly equitable. Though absent in person, Mr. Ellis was present, by his own testimony; and that testimony showed, that the two situations were wholly incompatible. If this clause were not agreed to, ministers themselves ought to say to Mr. Ellis, "the two situations are incompatible—you cannot hold them both; you must therefore make your election for one of them."

Colonel *Barry* observed, that all the arguments had been addressed to the principle of the clause, and nothing had been said as to its being an *ex post facto* proceeding. He admitted that it was improper to unite the two situations; but he objected to the time when the measure was introduced. He wondered that the right hon. baronet had not thought of the incompatibility of the two situations in the last session of parliament. He had, however, only found it out now, when Mr. Ellis either was, or was likely to be, one of the members for Dublin. It should be recollected, that Mr. Ellis had bought his office at a time when it was legally saleable for 10,000*l.*

Sir *J. Newport* said, the gentleman alluded to had purchased the office, under a special notification from lord chancellor Ponsonby, who felt the impropriety of the purchase or sale of such situations, that it was intended to alter the system. With respect to the charge alleged against him for introducing this provision now, he could only say, that it had all along been his intention to propose it, whenever the bill arrived at its present stage. If the House felt it necessary to except Mr. Ellis from the operation of the clause, he hoped government would provide for him in some manner, so as to enable him to give up the situation of master in chancery, that the suitors might not be injured by his absence.

Mr. *Martin* said, that after Horne Tooke had been elected a member of that House, a bill had been passed which disqualified him.

Mr. *Nolan* observed, that none of the great disqualification acts were allowed to operate until the ensuing session of parliament.

Sir *J. Mackintosh* said, a manifest distinction existed between the present clause and those general measures of disqualification which had been passed from an apprehension of some future possible inconvenience. In those cases there could be no necessity to affect the actual holders of seats. But here the case was the reverse: it was not future inconvenience that was guarded against, but parliament had presented to it a case in which the holder of an office had declared that it was impossible that he could perform the duties of that office if he were a member of parliament. As to the allegation that the other masters might do the duty for Mr. Ellis, the argument of the hon. member for Galway could not be replied to; and, if there was one master in chancery more than was necessary, the House should immediately set about the work of reduction.

Mr. *Wrottesley* said, a seat in parliament was a trust, not an office. It was, therefore, a question between Mr. Ellis and his constituents, because the lord chancellor of Ireland would see that business of Mr. Ellis's office was attended to. If the House took upon it to legislate in the case of every person returned to the House who might not be able to attend, they would be obliged in consistency to exclude many of their members who were generals in the army, and had commands abroad, for instance at the Cape and in India, so that they could not attend at all.

Mr. *Baring* said, the learned gentlemen seemed to have forgotten that the office in question was one of permanent duty; whereas the avocations of the army and navy were not so. Officers were frequently enabled to attend to their duties in parliament, without interfering with professional matters; but Mr. Ellis's employment required attention from day to day. With respect to its being a mere question between his constituents and himself, he differed entirely from the learned gentleman. It did not follow, because his constituents were satisfied, that that House should also be satisfied; because there were important duties to be performed by that House which must be neglected if an individual resided in a distant part of the country.

Sir *J. Yorke* supported the clause.

Lord *Palmerston* said, that the argument of Mr. Wrottesley had not been answered. There was no effectual distinction between a command in the army

or navy and the office of Mr. Ellis, as far as attendance in parliament was concerned. Hitherto the House had proceeded on one principle of exclusion only, namely, that which was directed against the influence of the Crown. It was not on that principle that the admission of Mr. Ellis was opposed. They had to consider whether they would admit another principle of exclusion, namely, that a man should not be elected to serve in parliament when he had other occupations which might keep him absent. This principle might lead to an inconvenient extent, which might incapacitate any man for any sort of public or private business.

Mr. *M. Fitzgerald* maintained, that the clause proposed by his right hon. friend was not liable to any of the objections which applied to a retrospective or *ex post facto* law with respect to Mr. Ellis, as it proposed only to enact a general principle, from which it was in the power of that gentleman to relieve himself if he should think proper. By the evidence of Mr. Ellis himself, it appeared that a master in chancery was necessarily occupied in the performance of his official duty for ten months in the year, and even liable to be called upon at times within the remaining period. How, then, was it possible for such an officer to perform his official duties and to attend to the business of that House?

Lord *Castlereagh* said, that he was an advocate for the principle of the clause, upon the ground that attendance in parliament was incompatible with the duties of an office which required almost perpetual attention in Ireland. He was, indeed, an advocate for the clause upon the same ground that the judges were excluded from that House, which was not because they were supposed dependent upon the Crown, but because, from the pressure of their judicial engagements, the two situations were incompatible. Still he thought that this clause should not be retrospective with regard to any masters in chancery which might be elected previous to the passing of the act. But should the gentleman alluded to be returned, it would, of course, be competent to any member of that House to move an address to the throne for his removal from the office which he held in the court of chancery, and upon that address being presented it would be difficult, he thought, for any minister, with that gentleman's own evidence before him, to hesitate about advising his majesty to comply with such an address.

Mr. *Abercromby* supported the clause. The observations made on the other side, with regard to officers of the army and navy holding seats in that House, had, in his view, no analogy to the present case; for a seat in parliament was to such an officer but a secondary consideration, while a master in chancery, in becoming a member of that House, was but too likely to make that his primary object, through which, of course, his official business would be neglected.

Sir *J. Newport* assured the committee that he had no personal motive whatever on this occasion, as he had the greatest personal respect for Mr. Ellis, and as he had mentioned to a friend of his, then in the House, before the death of Mr. Grattan, that it was his intention to move the insertion of a clause of this nature in the bill under consideration.

Mr. *Foster* objected to the proposed attempt to defeat the wishes, and to interfere with the franchises of the people of Dublin. He called upon the committee to recollect the precedent in the case of Horne Tooke, where the act excluding persons in holy orders from that House, specially provided for the exception of that gentleman during the existing parliament, on the ground that it should not be retrospective in its operation, although that act was actually brought forward in consequence of Mr. Tooke's election.

Mr. *Macdonald* observed, that Mr. Tooke had no option, as he could not divest himself of his orders, and that he had no duty to perform elsewhere, by the neglect of which the public would suffer, while Mr. Ellis was in quite different circumstances, as he had a complete option.

Mr. *Foster* remarked, that the object then was, to force Mr. Ellis to give up his office.

Mr. *R. Smith* said, that Mr. Ellis had, by his own admission, such official business to discharge as rendered it impossible for him to attend his duty as a member of that House. Therefore, should that gentleman be returned, an address to the Crown ought to be voted for his removal from office, and if no other person would make the motion, he should himself feel it his duty to do so.

Colonel Barry moved an amendment, to exempt from its operation any master in chancery who might be elected previous to the passing of the act. The amend-

ment was negatived without a division, and the clause was agreed to.

CRIMINAL LAWS.] Sir *J. Mackintosh*, in rising to move the committal of the Privately Stealing in Shops bill, said, he should make no observations in the present state of the measure, but reserve himself for the committee, which, after the admission of the principle by the House, was the proper place for the discussion of any objections which might be made to the several clauses. He hoped that any objections which might be entertained to any part of the bill, would be brought forward in the committee, in order that he might have a convenient opportunity of answering them, and not be postponed to any subsequent stage. Upon this, indeed, he was induced to calculate, as he had so often deferred the progress of the bill, at the request and for the accommodation of those gentlemen who were understood to entertain some doubts upon the subject.

Mr. *Chetwynd*, after some observations in favour of the bill, recommended the adoption of a clause, substituting a definite punishment for that which this bill proposed to repeal, namely, confinement for some period not more than two years, or less than six months.

Sir *J. Mackintosh* observed, that as this bill had been three times before the House, being twice carried in silence, and once with a majority of two to one in his favour, he could not be expected to offer any thing new upon the subject; but he felt it necessary to repeat, that nothing could be farther from his intention, than to cast the slightest imputation upon the judges, because he felt, from the conduct of those exalted magistrates, that no imputation could fairly attach, nor did he mean to take away from them any discretion but that which they never exercised. From the manner, then, in which the judges generally exercised their discretionary power, he could not think it necessary to prescribe the limits recommended by his hon. friend.

Sir *J. Yorke* observed, that as the hon. and learned gentleman avowedly took up these measures in imitation of the example of sir Samuel Romilly, he ought to recollect the fate of that gentleman's propositions in the other House, and not to pursue a course on this occasion, which, however creditable to his heart, did not appear creditable to his head.

Sir *J. Mackintosh* felt persuaded, that the adoption of his hon. friend's amendment would not recommend this bill to a more gracious reception in the other House of Parliament.

The amendment was not pressed. The Capital Felonies Repeal bill was also committed, and ordered to be reported on Monday. The committal of the Capital Felonies Commutation of Punishment bill was then proposed by sir J. Mackintosh, who observed, that he meant to propose the omission of three clauses, namely, that with respect to fines and recoveries, also that respecting marriage registers, certificates, and licences, as those offences rather belonged to the class of forgeries, upon which he had a distinct measure to submit to the consideration of the House; also the clause relating to persons returning from transportation who had been sentenced for offences against the revenue. The last clause he was induced to omit, because, upon farther consideration, he felt that there was no sufficient reason for making a distinction between such persons, and convicts returning for other offences. But upon all the other clauses he meant to take the sense of the committee.

After some discussion, in which the attorney-general, Mr. Lockhart, Mr. Chetwynd, Mr. Harbord, sir J. Rochfort, Mr. Martin, sir J. Yorke, and the solicitor-general, participated, the various clauses were agreed to, and the House resumed.

LINEN BOUNTIES.] Mr. *Maberly* brought up the report on the linen bounties acts, and moved that the resolutions be read a second time.

Mr. *Robinson* argued against the policy of making these bounties permanent. He objected strongly to the second resolution which recommended the imposition of a duty of 28*s*. on foreign linen yarn.

Sir *G. Hill* regretted that this question should have been agitated in the present session.

Mr. *Hume* concurred in the view taken by Mr. Robinson, and hoped his hon. friend would withdraw the second resolution. He urged the propriety of allowing the same drawback on ashes used in bleaching in Scotland and England as was allowed in Ireland.

Mr. *Foster* said, that the people of Ireland wished that those of England and Scotland should be included in every thing

in the way of advantage which they derived, but it would be ingratitude to take away the bounties on linen from Ireland. If he were exclusively an Irishman, he would say, treble the duties on yarn coming into Ireland, for the country grew more than it could manufacture. As to the drawback on ashes, he did not think it was sufficient, for formerly they were imported into Ireland free of duty.

Mr. *Huskisson* said, that every principle of justice required that the other parts of the empire should be put on the same footing, as to bounties, with Ireland.

Mr. *Ricardo* considered bounties given to Ireland in this way, as in the nature of a tax on the people of this country, and therefore he was generally opposed to such measures.

The first resolution was agreed to. The two other resolutions were negatived, and a bill was ordered to be brought in, founded on the first resolution.

MARRIAGE ACT AMENDMENT BILL.] Dr. Phillimore brought up the report of the committee on the Marriage Act Amendment bill. Dr. Lushington moved as an amendment, that the report be recommitted. Mr. Warren seconded the amendment. Dr. Dodson and Mr. D. Gilbert spoke in favour of the re-committal, and after a reply to their arguments from Dr. Phillimore, the House divided, when there appeared, For the reception of the Report, 47; Against it, 23: Majority, 24. The report was then received.

HOUSE OF LORDS.

Monday, July 3.

FOREIGN TRADE.] The Marquis of *Lansdowne* brought up the report of the committee on Foreign Trade. In moving that it be laid on the table, he trusted their lordships would excuse him if he detained them some moments by a few observations which he thought the more necessary to be now made, as he did not mean to make this report the subject of any other motion except that it be printed. He was induced to adopt this course, not only because any bill connected with the financial situation and revenues of the country would come with more advantage to the subject from the other House, but because he thought it better that any measure of this kind should originate with those who possessed the best means of giving it effect and carrying it into execution. At the same time that he abstained from proposing any thing on this report, he should very ill discharge his duty, if he did not state, on the behalf of the other members of the committee, that they were all anxious that some measure should be founded on the inquiry which had taken place. That something should be done, their lordships could not but feel to be due to the interests of all classes of the community—to the manufacturing, as well as the commercial interests—to the interests of shipowners—to the interests of the colonists—and lastly, though not least important, to the interests of British consumers. All the interests connected with foreign commerce complained of embarrassment and difficulties, respecting the nature and extent of which their lordships would be satisfied when they took the trouble to examine the report. Some of the recommendations which the committee had thought fit to make were of a nature which he believed would give rise to little or no conflict of opinion. Such were the alterations and arrangements respecting duties which appeared necessary for giving consistency and effect to existing measures. There were, however, facts connected with the interests to which he had alluded, on which difference would occur. There were cases in which he felt it would be impossible at this time to effect any considerable alteration, however desirable, without giving rise certainly to difference of opinion, and probably to some dissatisfaction. But he could not doubt that their lordships would concur in adopting such measures as should appear to them calculated to promote the interests of the public at large. In whatever was proposed, full consideration was due to the interests which might be affected; and their lordships must concur in this—that the interests of those persons whose capital had been embarked in trade within these ten or twelve years ought not to be overlooked. While the committee had thought it right to lay down in their report those great principles which he conceived ought never to have been departed from, they were at the same time desirous that the means of returning to a right system should be rendered as easy and convenient as possible. To accomplish this purpose, in as far as it could be forwarded by the present inquiry, their lordships had thought fit to separate that part of the subject which had been referred to the committee

from every other. The report was now completed, and he hoped that no unnecessary delay would take place in coming to the settlement of those important questions which remained to be adjusted. A difficulty had been experienced in returning from a course which had been resorted to only for temporary purposes. But though measures which ought to be abandoned could not be immediately relinquished on the change from war to peace, nothing could be more unfounded than the opinion that no alteration could be made in consequence of the restoration of peace, He concluded by moving that the report do lie on the table, and afterwards moved that it be printed.

Lord *Ellenborough* expressed a hope that some legislative measure should, if possible, be brought in this session on some of the objects recommended in the report. It was impossible for any member of the committee, who attended in his place, not to feel the duty of urging this. There were two points to the introduction of a measure, to embrace which he thought no objection could be made. They related to an alteration of the mode of levying the duties on timber. The first was a recommendation to levy the duty on timber by the cubic contents of the foot; the second was, to make the duty on timber which had undergone any process of manufacture higher than on timber in the log. In reference to the adoption of those enlightened principles which were recommended by the committee, it was with great satisfaction he could state his conviction that in some important instances their introduction would be attended with no inconvenience. It had, for example, been ascertained by the committee, that British ships were navigated more cheaply than any other vessels in the world. No injury therefore could arise to the shipping interest from any alteration which it might be thought fit to make in favour of foreign trade. Those who had petitioned most earnestly for the continuance of the present system with respect to the duties on timber, would therefore, if not benefited, at least not be injured, by any alteration which the legislature might think fit to make on that subject.

The Report was ordered to be printed.

HOUSE OF COMMONS.

Monday, July 3.

LIMERICK ELECTION.] Mr. Wodehouse brought up the report of the committee appointed to try the merits of the Limerick election petition. It stated that the hon. J. P. Vereker had not been duly elected, and Mr. T. S. Rice ought to have been returned. A resolution was subjoined, in which it was stated that Henry d'Esterre, recorder of Limerick, having been guilty before the committee of gross prevarication, he had been placed in the custody of the serjeant at arms. A second resolution enforced the propriety of laying the minutes of evidence before the House, in consequence of various acts of the corporation brought to light during the inquiry. On the motion of Mr. Wodehouse, it was ordered that Henry d'Esterre be committed to Newgate, and that the evidence be printed.

EAST INDIA COMPANY'S VOLUNTEERS BILL.] Mr. *Canning* gave notice of his intention on a future day to strike out the clause in the bill relating to the payment of the men. He suggested that any discussion would be more conveniently taken on the third reading.

Mr. *Bernal* objected to the bill, as he thought the volunteers to the number of 800 wholly needless.

Mr. *Canning* stated the nature of their establishment under the auspices of the East India company, as well as their probable duties in cases of necessity. He also referred to certain pending discussions on the subject, and to the length of time during which the corps had existed.

Mr. *Hume* expressed his regret that so strong a disposition prevailed upon all occasions by the civil power to call in the aid of the military. This step had been taken on Friday last within the city of London, when, as far as he could learn, not the slightest necessity existed. This was a most dangerous practice; he hoped that England would not be changed entirely, but that the civil power now, as formerly, would be paramount. On the occasion to which he referred, a legally established body had met for legal purposes, and yet something like an attempt was made to overawe it by the presence of a military force. It was the duty of magistrates upon all occasions, as far as possible, to avoid calling in the aid of the soldiers, and then the civil power would be both obeyed and respected.

Sir *W. Curtis* said, that this was the first time he had heard that any troops had been in the city on Friday last. He had

gone through the city and had seen none, and he believed that none had been there.

Mr. *Hume* added, that troops were stationed in Holborn, half of which was within and half without the limits of the city.

Mr. Alderman *Wood* observed, that he felt called upon to set the House and the country right regarding the soldiery in the city. Certain it was that a considerable body of life-guards had been called out on Friday last, and perhaps their horses heads might be in the city, and their tails out of it: one of them, fully armed, had come to Guildhall for orders; and the lord mayor had avowed that the military were summoned by his orders. It was not easy to see any necessity for such a proceeding, since no breach of the peace had been committed or contemplated: the meeting was most unanimous, and nothing was more unlikely than a disturbance.

The bill was then read a second time.

COMPLAINT AGAINST THE MAGISTRATES OF CARLISLE.] Lord *Lowther* said, that he held in his hand a printed petition presented on a former day by an hon. gentleman complaining of the conduct of three magistrates of Carlisle: he wished to know what course the hon. gentleman intended, to pursue, as the individuals concerned were very reluctant that such unfounded calumnies should go forth without the means of refuting them. His lordship hoped that the subject would not be postponed until the next session.

Mr. *James* answered, that early in the next session he designed to bring the subject forward, and that his motion would then be, that the three magistrates who had called in the military under pretence of quelling a riot, when not the slightest disturbance existed, should be called to the bar of the House.

Lord *Lowther* regretted that the question was to be postponed, as the accusations were perfectly groundless and unjust.

KING'S MESSAGE—PROVISION FOR THE ROYAL FAMILY.] The House having resolved itself into a committee on the King's Message,

Lord *Castlereagh* said, that in calling the attention of the committee to the message of his majesty, he was happy to state that the votes, seven in number, which he had to propose, were such as would meet with the unanimous concurrence of the House. The votes were merely for a continuation of the allowances which had been made during the late reign to the brothers and sisters of his majesty, and the duke of Gloucester and the princess Sophia of Gloucester, and to place those illustrious personages in the same situation in which they stood previously to the demise of the Crown. He had no hesitation in saying, that under other circumstances than those in which the country now found itself, he might have felt it his duty to call the attention of the House to one or two of these allowances with a view to augmentation. The second resolution, which would be for the allowance to the duke of Clarence, would call to mind, that his royal highness was, with respect to that provision, in a situation inferior to that of his royal brother. He should not now enter into the merits of the decision of the House on a former occasion respecting those allowances, as the Crown had determined to propose no new grant whatever, though his royal highness had now 3,500*l.* less than his royal brother the duke of Cambridge. The House and the public would not fail to admire the domestic economy and privacy in which the duke of Clarence had lived, and which alone had enabled him to keep within the parliamentary provision. The duchess of Kent and the infant princess might be also thought to have claims on the justice of parliament; but he should not then propose any vote to them, and he would inform the House that there would be no inconvenience in this postponement, as the prince Leopold, with great liberality, had taken upon himself the charge of the support and education of the infant princess [hear, hear!], hoping, however, that this would be no bar to any claim she might have on the liberality of parliament on a future occasion. Without this liberal proceeding on the part of the prince Leopold, the provision of the duchess of Kent would have been found very limited. On opening the civil list, he had previously stated to the House, that he should have to call on parliament for 24,000*l.* to make provision for the servants of the late king. The estimates for this grant would be submitted to the House on Wednesday, and he should at this time shortly state the heads under which provision was to be made to that amount. It was not usual on the accession of a monarch to make any charge for the servants of the former king, as those servants generally continued on the royal establishment.

From the peculiar circumstances which attended the formation of the Windsor establishment,—from his late majesty having in fact ceased to reign for some time before his demise, his present majesty had created a royal establishment long before his accession. In addition to the servants, in behalf of whom some allowance was called for, were some annual payments which had been made out of his late majesty's privy purse. The whole sum, which it was proposed to vote, was about 24,000*l.* Of this sum the allowances to the servants actually in the king's service at his death, would amount to 9,000*l.* The allowances to servants who had been previously superannuated from his majesty's household, to 4,500*l.* There were various small pensions charged on his late majesty's privy purse, which had been formerly examined by a committee up stairs, and had been charged on that privy purse by the advice of that committee. At the demise of her majesty, some of these charges yet continued. Several of the pensions were granted by the liberality of his majesty, and could form no claims on the public. Many of them, however, were of a class which called for the consideration of parliament. Of this class the majority were allowances to old servants. These charges on the privy purse, which it was now intended to make parliamentary provision for, amounted to 10,200*l.* Of this sum 8,000*l.* had been charged on his privy purse by the late king himself; 1,800*l.* by the late queen, while she presided over the Windsor establishment, and a few hundreds a year by the duke of York while he was custos. The persons to whom those payments were made could not be supposed to have a claim as of right on parliament, as the principle could not be admitted, that the charges on the sovereign's privy purse were to be made permanent on the public. Yet, under the peculiar circumstances of the case, as no danger existed of forming a precedent, he hoped the House would accede to the proposal. The noble lord concluded with moving, "That his majesty be enabled to grant a yearly sum of money, not exceeding 14,000*l.*, out of the consolidated fund of the united kingdom of Great Britain and Ireland, to his royal highness Frederick duke of York, from 5th July 1820."

Lord *Archibald Hamilton* was extremely surprised that the noble lord had wholly omitted to mention any provision for the queen. He had, more than once, when the noble lord proposed motions to that House relative to the royal family, expressed his astonishment that he did not offer any proposition to parliament for a due provision for the queen. On one occasion the noble lord said, that when the time came for making a provision for the other branches of the royal family, he would then introduce the subject of a provision for the queen. He hoped he had not misunderstood the noble lord; but such he took to be the nature of his answer on that occasion. He now found that the noble lord had come down this day, and moved for certain provisions for the other branches of the royal family, without taking any notice whatsoever of her majesty. This was a matter of very great surprise to him, and, he apprehended, to many other members of that House. From the course pursued by the noble lord, it appeared to him that ministers did not mean to make any proposition to the House, on this subject, during the present session. If he were wrong on this point—if the noble lord would state, that in the course of a few days he meant to submit to the House a proposition relative to a provision for her majesty—he would sit down without making any further observation. He presumed, however, from the silence of the noble lord, that this would not be the case. He was so much surprised at the course the noble lord had taken, that he could not avoid expressing the feeling which at that moment impelled him to ask an explanation from the noble lord, whose conduct he could not reconcile with his previous declaration. He conceived that it was peremptorily necessary for the House to ascertain immediately the situation in which the queen was now placed, and that in which she was likely to continue. At present, he believed, her majesty had no legal income whatsoever. What she might receive from his majesty's ministers was, in his opinion, illegally granted, and unduly made use of. He understood that her majesty had been told that she might continue to live at the rate of 35,000*l.* a year; but he, as a member of parliament, demanded, by what authority that money was advanced? by whom it was paid? and on what principle his majesty's ministers took upon themselves to make any part of the royal family their pensioners? In his apprehension this matter had little or no relation to the discussions that had been lately going on—discussions, the result of

which was likely to be so calamitous. But if the members of that House sat there as guardians of the public purse, they were bound to demand explanation relative to all sums that appeared to them to be illegally and unconstitutionally granted. They ought to consult the welfare and dignity of the royal family; and as a member of parliament he felt that dignity to be wholly compromised, and the duty of ministers grossly neglected, if they allowed any portion of the royal family to be placed in the situation of pensioners on the existing government. No provision had been asked for the queen, which was the more extraordinary, because not a doubt could be entertained of the readiness of the House to provide for her majesty. He knew not in what situation her majesty would be placed at the expiration of this session; and it was the more necessary that a proper sum should be voted for her service, since, if the proceedings now in progress went on, she would have occasion for a much larger command of pecuniary resources than she possessed at present. It was one singular feature of this unfortunate and calamitous case, that, at a time when her majesty was labouring under accusation, she was not placed in a situation that commanded all the facilities necessary for her defence. She was not treated in that way which her dignity, her station in the country, and the circumstances under which she was called on to defend herself, ought to have secured. It was most ungenerous and most unjust to seize on the present moment, in order to deprive her of any provision which she might have formerly enjoyed. He could not point out to the House what precise course they ought to pursue; but he was sure they would not make themselves a party to the negative insult that had been offered to her majesty by the noble lord and his colleagues, by any contribution of the public money for the use of different branches of the royal family, all mention of the queen being omitted; still less did he believe that the public would tolerate the noble lord and his colleagues in retaining her majesty as a pensioner on their bounty, merely, as he understood, because it suited his majesty's ministers not to stir this important subject. He wished to avoid touching on any point connected with the existing investigation, which had nothing to do with an adequate provision for her majesty. The proper mode of proceeding would perhaps be, to move, in some period of the evening, that the chairman should leave the chair, report progress, and ask leave to sit again, for the purpose of giving his majesty's ministers time to repair the affront they had given to the House of Commons, and to the dignity of the royal family. If he had said any thing harsh or severe, he could assure the House he did not intend it; but he felt that a great neglect had been shown towards her majesty, in not making for her that provision to which she was entitled — a proceeding which, he must observe, placed her majesty in such a situation as no member of the royal family ever was, or ever ought to be, placed in— a situation which no member of that House ought even for a moment to suffer. He expected from the noble lord a plain answer on this subject; but unless he received such an answer, he would move that the chairman do leave the chair, for the purpose of giving ministers an opportunity of considering the impropriety of their conduct, and also to enable the House to decide how far they would abet and sanction that impropriety.

Lord *Castlereagh* said, he was sure that the surprise of the House would have been much greater than that expressed by the noble lord, if ministers had come down and proposed a settlement for her majesty, considering the situation in which she at present stood. The noble lord had made three distinct charges against ministers— 1st, they were charged with not providing funds sufficient to enable her majesty to enter on her defence; next, with having committed a breach of the law, in granting sums of money not sanctioned by parliament; and, lastly, with having neglected to make a proposition to parliament relative to a provision for her majesty, it having been notified that such a proposition would be submitted to the House. Now, with respect to any practical inconvenience connected with the first point, he could assure the House that every means had been taken to obviate it. Every care had been taken to prevent any personal inconvenience which might be likely to affect her majesty. Provision had been made to meet any particular expense which the queen might incur in consequence of the pending inquiry. That was a point which he could assure the noble lord had neither escaped the king, nor been lost sight of by his ministers. It had been specifically notified to her majesty that every means would be afforded to her

for the defence of her character and conduct. He therefore hoped that the House would not catch from the noble lord the insinuation, for he had not made it a matter of direct charge, that there was any desire on the part of his majesty's ministers to expose the queen to any inconvenience, or to abridge her comforts in any way whatsoever. With respect to the mode in which the allowance was granted to her majesty, the jealous feelings of the noble lord would be quieted if he took the trouble of reading the resolution which passed that House in the month of April last, which went to continue for a limited time certain grants that had been previously made, and which were chargeable on the consolidated fund. Of these grants, the sum annually paid to the queen was one. It would be quite time enough for the noble lord's constitutional jealousy to take the alarm, if, after the 5th of July, he discovered that any advance of this nature had been made by ministers. At present, ministers had shown as little inclination to interfere with the functions of parliament as to neglect the duties of humanity. As to what the noble lord said relative to what he had observed on a former occasion, he was ready to avow that at the time alluded to he contemplated, as the most proper moment for making a settlement on her majesty, the period when the grants to the other branches of the royal family were brought under the consideration of the House. He had studiously stated this point, because there was nothing at that period to prevent their proceeding on the same principles by which their vote would be guided with respect to the other branches of the royal family. This feeling he had entertained while any hope existed that her majesty would remain on the continent, and thus save the House the painful task of investigating her conduct. What had since occurred had materially altered the situation of affairs; and for his own part, he did not think that the queen had authorized the noble lord to introduce this subject, after the papers that had been laid on the table of the House. Her majesty in one of those papers had plainly declared, that she would not have any thing to do with the pecuniary arrangement until the circumstances affecting her honour and character were disposed of. Besides, the noble lord ought to know that the House could not entertain a question of that description, viz., the making a settlement on the queen, without a message from the Crown. It was not for them to become initiative on a measure of this kind; and he would tell the noble lord, that in bringing it forward he was travelling out of his function as a member of parliament. It was not, he believed, very usual for the representatives of the people to be clamouring for the disposal of the public money. Neither did he think it was proper to enter into an inquiry as to the way in which the queen was to be provided for, until they saw the end of the pending investigation. He was the more astonished at the course adopted by the noble lord, because it was entirely contrary to the feeling of the noble lord's right hon. friend (Mr. Tierney). That right hon. gentleman had stated, that he would not vote a shilling of the public money to the queen, till the charges made against her were entirely cleared up. He had farther observed, that if even a rumour continued unexplained, he would not agree to any supply that might be proposed for her use. So determined was that right hon. gentleman, that he would not even suffer rumours to pass by unnoticed. But the noble lord, rather unadvisedly he thought, was anxious, in the very midst of these delicate proceedings, that her majesty should be specially provided for. Under all the difficulties of this painful state of things it would be found that the Crown had taken the best care to relieve her majesty from any embarrassment in entering on her defence; and with respect to making a permanent provision for her, it would perhaps be as well to reserve that subject until the moment when the country understood how her conduct was regarded by parliament.

Lord *A. Hamilton* observed, that the noble lord had treated him with much unfairness, and the House with still more. In the first place, every gentleman would do him the justice to acknowledge his having stated in the outset, that if the noble lord meant, in the present session, to move for an allowance to her majesty, he would say nothing more on the subject. The noble lord, however, had told them that her majesty had been provided for until the 5th of July. He would now ask the noble lord how her majesty was to be provided for after that period? and in answer to the triumph of the noble lord, he would observe, that, had he postponed the statement which he had that night

submitted to the House until the day after to-morrow, the noble lord would not have had the opportunity of repelling it as he had done. The course the noble lord had taken was another proof of the extreme unfairness that pervaded the whole of his conduct on this occasion. He would demand whether any perversion of reasoning could be greater than to argue that because her majesty thought proper (most honourably as he conceived) to exclude all pecuniary considerations from the negotiation between her law-advisers and ministers, therefore the noble lord's humanity and that of his colleagues should lead them rather to continue her a pensioner on their bounty than a plain and direct applicant to that House. He could not imagine any thing more unfair in argument than that. He did not wish to follow this subject farther; but his opinion was, that the line of conduct pursued by the noble lord was neither suited to the dignity of the royal family nor creditable to the character of parliament. The noble lord ought to know that, by the law of this country, every individual against whom charges were made was, pending trial, deemed to be innocent.

Mr. *Tierney* said, it was perfectly true, that he did state that he would not agree to any permanent vote for her majesty, until the charges alleged against her were cleared up. When her majesty's name was omitted in the Liturgy, he had declared that if her conduct was such as to justify that measure, he would vote against any grant that should be proposed. He was a little surprised, however, at the course the noble lord was now pursuing, because, if he understood him correctly, he had stated that he would, whenever the provision for the royal family was brought before the House, take some notice of her majesty's situation. It appeared to him that her majesty was treated in the most extraordinary way, no provision of any kind having been made for her. The noble lord had stated very truly, that no member of that House could bring such a question forward of his own motion, but that it must be done by a message from the Crown. He knew that there must be a message on the subject; but he supposed no intention existed to make the necessary provision for her majesty [Lord Castlereagh here intimated across the table that such an intention did exist]. He was very happy to find that a proper sum of money would be allowed to her majesty, as he understood, for the ensuing quarter, and he was also glad to learn from the noble lord, that a sufficient provision would be made for her majesty, to enable her to conduct her defence. This had not been the customary mode of proceeding. It was usual for parliament to defray the amount of the charges after they had been incurred. So long, however, as the queen was provided with the means of entering on her defence, he cared not whether they were granted before or after that defence was made. It ought to be recollected, however, that the queen had been allowed 35,000*l*. a year as Princess of Wales, she having at the time a royal palace to live in. Was it not, then, a fair matter of consideration whether the same sum would now be sufficient, her majesty having to provide herself with a House? He had little more to observe with reference to these votes, because the whole of them would be brought before the House in a more formal shape on Wednesday. It was true that the duke of Clarence was in a worse situation than any of his royal brothers. On his marriage 10,000*l*. had been proposed for him, but only a sum of 6,000*l*. was voted, which, he knew not by whose advice, he had declined accepting. From his independent conduct on that occasion, and his having thrown himself openly on the feelings of the people, he appeared to him to be worthy of the additional vote that was about to be proposed.

Lord *Castlereagh* observed, that provision would not only be made for the usual support of her majesty, but that a sum would also be granted to meet any expenses that might arise during the pending investigation. Her majesty was provided for by the vote of that House up to the 5th of July; and it would be time enough for the noble lord to complain when he found ministers disbursing the public money without any legal authority.

Mr. *Denman* wished to observe, that this question was brought before the committee, without her majesty's knowledge. She had given no directions whatsoever on the subject; she had no possible doubt that all necessary means for defending her rights and asserting her character would be afforded her from some quarter or other. It was, however, fit that the House should understand that the expenses would necessarily be very considerable. There was, however, another object much nearer to

her heart than that of expense; it was the dread lest the interference of foreign powers should prevent her from having the benefit of those witnesses who were necessary to her exculpation. She feared that certain foreign powers, particularly Austria, which had been exceedingly active in her persecution, would deprive her of those individuals without whom her justification would be incomplete. When she was, at last, accused before a public tribunal, whatever the decision of that tribunal might be, she called for a fair opportunity to sustain her character, and with that view she demanded that all difficulties and obstacles should be removed.

Lord *Castlereagh* said, that on the part of the Crown every thing would be done to facilitate her majesty's proceedings; and, with respect to the foreign powers, they would, he conceived, feel it to be a point of character to give her every assistance in their power.

The several resolutions were agreed to.

Personal Property of the late King.] Sir *J. Newport* wished to ask the chancellor of the exchequer, whether his late majesty had left a will, or, if he had died intestate, in what manner his personal property had been disposed of?

The *Chancellor of the Exchequer* said, he was not prepared to answer the question.

Mr. *Tierney* repeated the question, and asked, in case of the non-existence of such a document, what had become of that property?

The *Chancellor of the Exchequer* replied, that he did not know, and it was not his duty to know whether such a paper existed.

Mr. *Hume* said, that when he put a similar question to the chancellor of the exchequer upon a former occasion, the right hon. gentleman was certainly understood to have stated distinctly that a will did exist. If his late majesty had died intestate, it was proper that the House should know what had become of the money vested by acts of parliament under commissions, before they proceeded to grant sums of money to any part of the royal family. He trusted that some honourable member would take an early opportunity of making a motion upon the subject.

The *Chancellor of the Exchequer* observed, that if there was no will the personal property, he apprehended, devolved to the successor to the throne.

Mr. *Tierney* thought it very important to ascertain whether his majesty had died intestate, or if any paper amounting to a will had beem found, what measures had been taken with respect to the disposition of the personal property of his late majesty.

Mr. *Bernal* wished to know from whom he was to receive official information upon this subject, if not from the chancellor of the exchequer.

Mr. *Hume* contended, that if his late majesty had died intestate, his property was no longer private but public; and if public, it was the duty of the House to ascertain, especially in the present distressed state of the country, in what manner it had been disposed of.

The *Chancellor of the Exchequer* assured the hon. gentleman, that no part of the personal property of the his late majesty had come under the cognizance of that part of the government connected with the Treasury.

Mr. *J. P. Grant* said, that as part of the property, which was *primâ facie* to be considered as the property of the Crown, had been put up to sale, the House ought to be informed whether any inquiry had been made to ascertain whether it belonged to the Crown or not.

Mr. *Hume* wished to ask the chancellor of the exchequer whether he would have any objection to state, upon a motion being made, what steps had been taken by ministers to ascertain whether his late majesty had left a will, and what part of his personal property was likely to accrue to the public.

The Chancellor of the Exchequer was silent.

Mr. *Baring* thought that if this subject appeared to be involved in any mystery or intrigue, a strong sensation would be excited in the country. If the exaggerated estimates had gone abroad as to the amount of the property left by his late majesty; that circumstance was itself calculated to excite the public attention, which would probably be increased after the conversation which had taken place upon the subject. If the right hon. gentleman did not wish to give any distinct information, he might at least state some reason which rendered it inconvenient to be more explicit.

The *Chancellor of the Exchequer* re-

peated, that no part of his late majesty's property had come under the cognizance of the Treasury, the disposition of it belonged more properly to the authority of another court.

Mr. *Bernal* observed, that information was extracted from the right hon. gentleman, like a bad, cork from a bottle of brandy.

After some further conversation, Mr. Hume gave notice that he would make a motion respecting the personal property of the late king to-morrow.

KING'S BENCH PROCEEDINGS BILL.] The House having gone into a committee on this bill,

Mr. *Chetwynd* said, it was his intention to propose three additional clauses to this bill. The first of them was, to enable judges to pass sentence upon defendants at Nisi Prius, instead of bringing them up to the court of King's Bench.

The *Attorney-General* said, that an objection *in limine* existed against the clause proposed by the hon. member. When defendants were brought up to the court of King's Bench, they had a right to move for a new trial, for a writ of error, or in arrest of judgment. The effect of the clause would be to deprive them of these advantages. Whatever opinion the House might entertain of the expediency of such an alteration if introduced to them as a specific measure, there could be no question as to the impropriety of entertaining it in the crude shape in which the hon. gentleman had brought it forward.

Mr. *Chetwynd* observed, that in offences against the revenue not a single instance of a new trial had occurred in the last year.

Mr. *G. Bankes* thought that the clause proposed would be more properly made the subject of a specific measure.

The *Attorney General* was of opinion, that in the cases which had been pointed at, it might be very important to the parties to possess the right of moving for a new trial. He therefore could not consent to adopt the clause. He explained and justified the increased amount of law charges for the last year, and proceeded to show that the statement recently made by the late member for Colchester receiving briefs and counsel being paid for all prosecutions throughout the country whether they attended them or not, was erroneous.

The clause was rejected, and as Mr. Chetwynd did not press his other clauses, the House resumed.

THE CORONATION.] On the order of the day for going into a committee of supply,

Mr. *Creevey* rose to make a few observations upon a subject which the right hon. gentleman was going to introduce to their notice—he meant the expense of the ensuing Coronation. As yet there had not been placed upon their table any estimate of the sums of money which would be required for such a ceremony; and till such an estimate was presented to them, he for one, would not grant a single farthing for it. Indeed, it was his opinion, that, under the present circumstances of the country, no coronation ought to take place: for let honorable members consider—and if they did not consider, the public would consider for them—the situation to which that House was at present reduced. A green bag had been submitted as well to its notice as to the notice of the other House of Parliament. The other House had proceeded so far in the investigation of the contents of that bag as to render it extremely probable that a bill would be immediately introduced to expose her majesty the queen to the utmost disgrace and infamy. The House of Commons had, however, refused to enter with similar speed into a similar investigation; and yet, notwithstanding that circumstance, ministers, who knew well that that bag was lying on their table unopened, and that proceedings might arise from the opening of it which could only be terminated in another place—ministers had dared to come down, and to ask for a large grant of money to be expended in a grand gala, a great national jubilee, whilst the queen of the country was labouring under the most heavy and grievous accusations. If the laws of the land had prescribed any particular period, after the demise of one monarch and the accession of another, within which this ceremony of coronation was necessarily to take place, then, however painful the circumstances attending it might be, he should have said, let it take place within that period. But no such limitation existed, and therefore, under existing circumstances, it was most improper that it should be held at the time which was now fixed for it. Indeed, his majesty would be most imprudently advised if he did not postpone it until the conclusion of this investigation. If there

was any one country in the world more distinguished than another for honourable and chivalric feeling towards women, it was our own; and he would say, that he had never seen in it any individual who would wish to obtain gratification to himself by inflicting pain even upon the most degraded of the other sex. If, then, such were the state of feeling amongst us, with what disgust would the nation view its king mixing in all the revelry of a grand gala and jubilee—given too, not at his own but at the public expense—at the very time that its queen was made the subject of a grave and heinous accusation? It was said, that in the course of this inquiry there could be no recrimination; but even allowing that to be the case, which he did not believe, still it ought to be recollected that, so far as public feeling was concerned, the king was as much upon his trial as his illustrious consort. He thought that, as the House had decided that the inquiry now proposed would be both derogatory from the dignity of the Crown and injurious to the best interests of the empire, that inquiry ought not to be instituted; but if it were, it appeared to him that the coronation, costing the money which it would cost, and irritating the feelings of the country as it would irritate them, ought to be postponed until that inquiry was finally terminated.

Lord *Castlereagh* observed, that he did not know upon what grounds the hon. member had come forward with so much zeal to attack the coronation, if it were not on the ground of the expense by which it would be attended; and upon that point he was happy to inform him that it would be much less than had been originally expected. With regard to the argument which the hon. member had built upon the unfortunate differences now existing between their majesties, he felt himself compelled to to say, that his majesty's rights were not to be impaired either by the absence or the presence of the queen on this occasion; for the coronation was not a grand gala, or national jubilee, as the hon. member had represented it, but a ceremony whereby the king ratified the compact which existed between himself and his people; and therefore was a ceremony which ought not to be delayed. His majesty's ministers deserved no blame on account of the period at which the coronation was to take place, as it had been fixed at the usual period after the death of the preceding sovereign, and had been announced long before it was known that her majesty would return to England. If it occasioned pain to her majesty, ministers could not but regret that circumstance; but still it ought to be recollected, that her majesty's presence was not occasioned by them, and therefore, if it did cause her pain, they were not the authors of it. As, then, a day had been fixed for the coronation, as that coronation was the time when the king entered into a covenant with the nation to observe its laws, and protect its interests, and as no public ground had been shown for deferring it, he did not feel it to be his duty to interfere in arresting it. Before he sat down he would take the opportunity of assuring the House, that 105,000*l.* would be the utmost expense which this coronation would cost to the country.

Dr. *Lushington* apprehended that at present there were circumstances of so peculiar a nature, both with respect to the situation of the queen-consort, and the state of the public finances, that ministers themselves must believe they would best discharge their duty by advising that this ceremony should be delayed. There was, in fact, no necessity for a coronation at all, and he believed it would be found, on referring to the history of this country, that many kings had reigned for a considerable time without having gone through that ceremony. If then, there was no necessity for his majesty's being crowned, it became a question whether or not, at the present moment, it was expedient. His hon. friend had stated, that while the trial of her majesty was going on, it was improper that there should be a public solemnity in which she could take no part. In this opinion he entirely concurred; and he also agreed with his hon. friend in thinking that it would be imprudent to rouse and provoke the feelings of the people of this country, at a time when they would be in a high state of excitation. He would appeal to the noble lord himself whether it was not impolitic to offer this additional excitement to public feeling at a time when the noble lord must know, from the addresses that were presented to her majesty, what the opinion of the people was respecting the treatment which she had received: and when he must also know, if he at all looked forward to futurity, that these feelings would hereafter become stronger than they were at present. But there was still another objec-

tion which had more weight with him than either of those to which he had adverted—he meant the universal distress which at present pervaded the country. 'That distress was so real and so great, that he would not consent to vote away a single shilling of the public money for any purpose that was not absolutely and indispensably necessary.' Let hon. gentlemen look at their table covered with petitions from the agriculturists; let them reflect on the present state of all the great manufacturing towns in the kingdom—Glasgow in ruins, Leeds in distress, and Birmingham scarcely able to support herself; let them also look at the situation of the sister kingdom, to relieve whose commercial distresses they had a few nights ago voted a grant of 500,000*l.*; and with this picture before their eyes, was the noble lord to tell them that 105,000*l.* was a small sum? It was not a small sum; it was a large amount, when the means of the country and the distresses of the people were taken into consideration. What would be the effect of a coronation at the present moment on the public feeling? They would have in the news-papers columns upon columns filled with accounts of this pompous ceremony, with gorgeous descriptions of the coronation robes, and of all the splendid trappings and costly equipage displayed on the occasion; and when the starving individuals in Glasgow, Leeds, and Birmingham, should read these accounts, and learn that 105,000*l.* had thus been spent in one day, while at that very moment there were hundreds of thousands of individuals in those towns without any means of subsistence—what effect, under those circumstances, could such an account have but to excite disgust and discontent? Let the House compare the misery and sufferings of these people with the pomp and pageantry of the proposed coronation, and then they would see if ministers were not exerting themselves to aggravate the distress of the country. They not only neglected the public distress, but were also wanting in attention to constitutional forms. They were erecting additional barracks at the present moment at Glasgow, at Manchester, and even in the metropolis: and for what purpose? Why, to keep down the dissatisfaction of the country. Thus, while they were taking measures on one hand to suppress discontent, they were on the other doing all in their power to excite it. If this measure were persisted in, he, for one, should say, that to whatever extremities the people might go, whatever outrages they might commit [Hear! from ministers]; he was not afraid to avow the sentiment; and lest the hon. gentleman should think that he might disavow it at some future period, he would now repeat, he believed in his conscience that whatever excesses the people might commit they had been driven to them by ministers, by their arrogant and oppressive conduct, and their contempt of public feeling. Did the hon. gentlemen opposite suppose that the spirit of the country was to be fettered and manacled by those volunteers that were now raising, or that it was to be kept down by the barracks that were rising up in every direction? This effect might indeed be produced for a short time—but only for a short time; for there was still spirit enough in the country to lay in the dust all the machinations of the hon. gentleman and his colleagues. He had thought it his duty to state these sentiments. On looking at the events which had occurred for some time past, and at the measures which had been adopted in consequence of those events he firmly believed that no bills could effectually put down disaffection, because he was convinced that disaffection never existed generally amongst a people, except it were the consequence of misgovernment on the part of their rulers.

The *Chancellor of the Exchequer* expressed his surprise at the observations of the hon. and learned gentleman, as he had allowed the subject to sleep so long unnoticed. The hon and learned gentleman knew of it long ago from the king's proclamation. He had, however, chosen to wait until a considerable expence had been incurred, and when the question was, not so much whether the public money should be paid, but whether the tradesmen who had been employed should be honourably paid? He wished the hon. and learned gentleman to consider, whether or not when the complaint from many parts of the country was of a want of employment, the occurrence of such a great public solemnity as that in contemplation was peculiarly desirable, giving work as it must to many branches of the unoccupied? The hon. and learned gentleman must know that the sum voted from the public purse would form but a small part of the money that would be expended on the occasion. He must know that the expence to which the higher classes of so-

ciety would be put in consequence of the approaching solemnity, would very much exceed the amount to be taken from the public purse. He must know that the whole of this expenditure would go to enliven industry and employ the manufacturers, who were in want of such a stimulus. The hon. and learned gentleman must know that the peculiar grievance in the country was the want of animation which trade experienced. Above all times, therefore, the present was the time in which an ancient custom, which would contribute to produce that animation, ought not to be relinquished. As the hon. and learned gentleman asserted that there was a want of fidelity to the constitution on the part of the people, could there be a better occasion on which that disaffection might be diminished than one in which the monarch on the one hand promised protection, while the people on the other pledged themselves to pay the tribute of their allegiance? Was the present a time to depart from an ancient usage of that nature? Was it a time to abandon those forms which our ancestors had established, and which had so long been maintained? Was it not rather a time at which, with all due attention to economy, the most venerable and splendid ceremony of our constitution ought to be properly observed? The hon. and learned gentleman had gone rather to extremities in his speech. He had, by anticipation, apologised for any outrages to which he thought the people would be prompted by the extravagance of ministers [Dr. Lushington expressed his dissent across the table]. He hoped then that he had misunderstood the hon. and learned gentleman, and he was persuaded it would give the House satisfaction, if the hon. and learned gentleman could explain the expressions to which he alluded. What he had understood the hon. and learned gentleman to declare was, that the extravagance of ministers was a just ground for expecting that the people would proceed to extremities and outrage.

Dr. *Lushington* said, that what he had stated was, that the distress of the country was occasioned by the extravagance of ministers.

The *Chancellor of the Exchequer* continued. He would say no more on that point. With respect to the coronation of his majesty, he begged to observe that the period when that ceremony should take place, was fixed long before the arrival of the queen. The period having been so fixed, it did not become necessary to alter it in consequence of any difference which existed in the royal family, and there having been no previous objection started to the coronation of his majesty, the House ought to provide for the expenses attendant on it.

Colonel *Davies* was of opinion, that the period fixed for his majesty's coronation was a most inconvenient one. Irritated as the public mind now was, it might be productive not only of disorder and riot, but of bloodshed. Why, then, should his majesty's advisers propose such a proceeding at this moment? It was not indispensably necessary that his majesty should be crowned immediately. His late majesty was not crowned until 13 months after his accession. He thought, therefore, that as there was no other mode of repressing tumult on this occasion than by calling out an extraordinary number of the military, the danger likely to arise had better be avoided by postponing the coronation for the present.

Mr. *T. Wilson* said, it was not his intention to prejudge the guilt or innocence of her majesty, but he thought it would be derogatory from the dignity of the crown to refuse the sum proposed to defray the expenses of his majesty's coronation. It was rather odd that those gentlemen who had now objected to this ceremony, had not, on any former occasion, signified their disapprobation of its taking place at the time proposed. Any objection on that head ought to have been made at an earlier period.

Mr. *Bennet* said, the hon. gentleman had accused his side of the House for not having taken an earlier opportunity of opposing the coronation at the period proposed. But who was it that proposed that coronation—who was it that directed the erection of the works for it? It was his majesty's ministers, not the opposition, as neither he nor his friends had any opportunity of speaking on the subject until it came fairly before the House. He could not help feeling, that nothing was more likely to excite public indignation, than to find, that while one House was agitating a bill of pains and penalties against her majesty, the other was employed in voting a sum of money to be expended in the pageantry and show of the coronation of the king. Historians had remarked, that in the reign of Henry 8th, the public mind had been much agitated, while proceedings were pending against the queen

of that monarch, at observing the festivities and pageantry of that court. He thought it not unlikely that a similar feeling would be entertained now, if it was found, that while the ceremony of the coronation was going on in Westminster Abbey, a bill of pains and penalties was pending against the queen.

Mr. *Robinson* said, he rose principally to make a few observations, which were drawn from him by the extraordinary and unmeaning rant of the hon. and learned doctor, who had worked himself into a most violent passion, and had belaboured his majesty's ministers most unmercifully; but if there was any foundation for that harangue, the hon. and learned doctor had been lamentably remiss in his duty in not calling them to account long ago. He ought to have objected to the first step taken in preparing for the coronation; he had not however done so, and therefore the learned doctor was wrong in now objecting to the expenses necessary to carry that object into effect. It was objected that so large a sum should be expended in the mere pageantry of a coronation, and that too while a bill of pains and penalties was pending against her majesty. He denied that the coronation was a pageantry. Let the hon. member look to the preamble to the act of king William, and he would find that the coronation was any thing but a parade. The king was bound to take certain oaths, and it would be a fault in ministers to delay his majesty's doing so. The hon. member then read the oath which his majesty was bound to take, "that he was bound to govern the country according to the statutes; that he should administer justice in mercy; that he would maintain the religion of the country as by law established, &c." Would the House, after this, say that the coronation was a matter of choice? He maintained it was matter of law, and could not be dispensed with [Hear, hear!]. This being the case, how could ministers have justified themselves in advising the postponement of so important a measure? Next came the objection in point of time. He remembered, that six months since, a great objection was, that it was to take place in the dog-days: however this might be, he was sure that Christmas would be found a much more inconvenient period. The public curiosity would naturally be excited on the occasion, and ministers would undergo no small portion of blame, if a period was fixed when the ceremony of the coronation could not be witnessed at all.

Mr. *W. Smith* would ask the right hon. gentleman, if he really believed that the king, after he had taken the coronation oath would be more or less bound to reign according to law than he was after he had taken the oath before the privy council? Could it be said that he was at any future period to be absolved from any of his regal functions because he had not taken a coronation oath? As to those splendid ceremonies, of which the chancellor of the exchequer had spoken as calculated to support the dignity of the Crown, he conceived that they were—"more honoured in the breach than in the observance." He appealed to every hon. gentleman, whether it was not his opinion that the feelings of the country were more in favour of economy than of the most splendid public exhibition. He had hitherto purposely abstained from saying any thing on the question of the queen; and if he were now to speak his sentiments, he apprehended they would not please either side of the House. He thought that the propriety or impropriety of having a coronation while proceedings were going on against her majesty, was merely a matter of feeling; but it was a matter that came home to the mind and bosom of every person.

Mr. *Baring* concurred with his hon. friends as to the unfitness of the period chosen for the coronation; but with regard to the expense, he could not think that there would be any man in the country whose feelings would be shocked by it. The estimate was certainly far less than he had anticipated. Although it was undoubtedly of extreme importance that the king should be crowned soon after his accession, yet he could not see that a delay of 6, of 12, or of 18 months even, was material. He thought, also, that the ceremony should be performed with great solemnity; but he repeated that he could not see the necessity of being particular as to the precise period of the event. Pending the present proceedings with regard to her majesty, however, the celebration of that solemnity was likely to be not only unpleasant to the feelings of the people, but to have a very injurious effect upon the minds of many. If her majesty were declared innocent, every person would say, notwithstanding that it might be the right of the Crown to determine whether or no she should be

crowned, that it was a great hardship to exclude her from a participation in the ceremony of the coronation. But his principal object in rising was, to suggest that upon the coronation of a new king, some alteration should be adopted in the oaths which were to be taken by him. The whole of the family and race of the Pretender having now ceased, he thought his majesty's ministers should devise some alteration in the oaths.

Sir *M. W. Ridley* hoped, that should the coronation take place, a due regard would be paid to the encouragement of British manufacture. The article of velvet particularly ought to be encouraged on this occasion. It was true that English velvet could not compete with that of Genoa, yet it was equally handsome in appearance. This might appear a trifling consideration, but he hoped it would not be forgotten by his majesty's advisers.

Mr. *Tierney* said, that as to the vote to be proposed, he was not aware that he should have any thing to object on that account. He was no enemy, on some occasions, to pageants, and, least of all, to such a pageant as the one in question. But he regretted that it was determined that the coronation should take place upon the 1st of August. He sincerely lamented that his majesty should have been advised to come to such a resolution. After the steps, however, which had been taken, after the official letters that had been addressed to all parties concerned, it was hardly, perhaps, to be expected, that his majesty should stop short in the transaction. He did not, at the same time, think that there were ten gentlemen in the House who would not thank him, if he could devise any means by which the celebration of the coronation could be farther deferred. Now, after the arrival of her majesty in this country, he did own that he had hoped the propriety and necessity of such a postponement would have been felt and acted upon. He should be liable to a great deal of misunderstanding, if he were to state all that he apprehended as likely to result from the coronation so speedily taking place. The general opinion was that her majesty had been oppressed. He did not here mean to say a word as to the opinion of her innocence or guilt; yet it could not be contended for a moment but that this opinion of her being oppressed was the general feeling; and the one which pervaded not only the lower classes, but the higher ranks of society also. He would ask any man whether this was a moment to be selected for a coronation, when her majesty was residing in a miserable house in Portman-street? The right hon. gentleman had referred to an act of parliament; and that undoubtedly was a very important one. if it had directed that the oaths should be taken within a few weeks, it might have been a conclusive authority; but the fact was, that they had always been postponed where particular circumstances required. For instance, his late majesty's coronation was deferred in this way, upon the ground that he was about to espouse the late queen, upon which account it was thought better that the two coronations should be performed at once. So in the present case, if all the grounds of suspicion should be done away with, he was prepared to contend, that her majesty should be crowned. If his majesty's coronation should be deferred till that were the case, she would be entitled to participate in that exalted honour. The noble lord could not deny that in consequence of the proposed coronation a larger military force than usual was to be introduced into the metropolis. Now, under these circumstances, he thought that more cruel, more unfriendly, or more unkind advice could not have been given to the Crown, than to proceed with this important measure; and he agreed that ministers were to be held responsible for all the acts which might follow. He pressed upon the attention of the House the mischievous consequences which might result from the occurrence of the coronation on the 1st of August, while the minds of men were so entirely occupied by the question of the exclusion, just or unjust, of her majesty from the full enjoyment of her right. He thought that its postponement could be productive of no bad effect; whereas its celebration upon that day might be productive of consequences which could not be foreseen.

Mr. *Ricardo* thought that if the various articles likely to be consumed at the coronation could be bought cheaper in the foreign than the home market, there could be no objection to their not being home manufacture, seeing that they must be purchased by the produce of our own industry.

The House then went into the committee, in which it was resolved, "That 100,000*l.* be granted on account of the expenses of his majesty's coronation."

IRISH COURT OF CHANCERY BILL.] The report of this bill being brought up, Colonel Barry said, that in order to show there was a second opinion in the House with respect to the case of Mr. Ellis, who was, he believed, ere now, elected for Dublin, he thought it proper to move an additional clause, viz. "That nothing in the act shall extend to prevent any person from sitting or voting in the House of Commons who shall have been elected to serve therein previous to the passing of the act."—The question being put, that the clause be brought up, the House divided—Ayes, 42; Noes, 65: Majority against the clause, 23. The report was then agreed to.

HOUSE OF LORDS.

Tuesday, July 4.

REPORT OF THE SECRET COMMITTEE ON THE PAPERS RELATING TO THE CONDUCT OF THE QUEEN.] The Earl of *Harrowby* rose and said, that as chairman of the Secret Committee appointed to examine the Papers referred to the House by his majesty's message, relating to the conduct of the queen, he was commanded to present the Report of the Committee to the House. The noble earl moved that it be read, which being agreed to—

The Clerk read the Report as follows:

"By the Lords' Committees, appointed a Secret Committee to examine the Papers laid before the House of Lords on Tuesday, the 6th of June last, in two sealed bags, by his majesty's command, and to report thereupon as they shall see fit, and to whom have been since referred several additional papers, in two sealed bags, relative to the subject matter of his majesty's most gracious Message of the 6th of June last,

"Ordered to Report, That the Committee have examined, with all the attention due to so important a subject the documents which have been laid before them, and they find that those documents contain allegations supported by the concurrent testimony of a great number of persons in various situations of life, and residing in different parts of Europe, which deeply affect the honour of the queen, charging her majesty with an adulterous connection with a foreigner, originally in her service in a menial capacity; and attributing to her majesty a continued series of conduct highly unbecoming her majesty's rank and station, and of the most licentious character.

"These charges appear to the Committee to be calculated so deeply to affect, not only the honour of the Queen, but also the dignity of the Crown, and the moral feeling and honour of the country, that in their opinion, it is indispensable that they should become the subject of a solemn inquiry; which it appears to the Committee may be best effected in the course of a legislative proceeding, the necessity of which they cannot but most deeply deplore."

The Report was ordered to be printed.

The Earl of *Liverpool* said, that in consequence of the report which their lordships had just heard, it was incumbent on him to give notice, that he should to-morrow bring in a bill, founded upon the report, the object of which he should then explain to their lordships. At the same time all facilities would be given to the illustrious personage whose conduct was implicated so much, for the purposes of defence or exculpation in every way. He concluded by moving, that their lordships be summoned for to-morrow.

Earl *Grey* would, in the present situation of the proceedings, abstain from saying much that occurred to him upon this most important subject, the difficulty and danger to be apprehended from which was, in his opinion, increased in an immense degree by the report now on the table. When he before objected to the course which the noble lords opposite proposed to pursue, he stated then, and he now repeated, that his only object was to obtain for the parties concerned strict and impartial justice. He had now again to enter his protest against the injustice of a proceeding which did not leave the case of the person accused in an unprejudiced state. The charges now made were not merely brought forward by the ministers of the Crown, but came before their lordships through the medium of a committee of their lordships' House. It was therefore important that their lordships should consider the situation in which they were placed. Though the noble lord had alluded to the introduction of a legislative proceeding, it must be anticipated that their lordships would have to act judicially in the course of the inquiry. They ought, then, to come impartially to that part of their duty. The charge set forth, on the authority of the report, was that of an

adulterous connexion with a menial servant, and a long course of licentious conduct. A charge of a more abhorrent nature never could be made against any individual, to say nothing of its being brought against a queen. If this charge rested upon evidence which could be supported, it certainly formed a case for indispensable inquiry, and he agreed that it was for the honour of the Crown and the welfare of the country, that the inquiry should proceed in the way calculated to secure the honour and interests of both. But by whom were their lordships told that the evidence could be supported? By those ministers who were willing to continue her majesty in the character of queen—to make arrangements for her introduction to foreign courts—and to recommend their ambassadors to pay respect to her. They now told their lordships that the queen was a person liable to imputations of the most abhorrent nature. They had permitted this conduct to go on for years, and now they brought forward the charge with the greatest haste, leaving it suspended to agitate the country, and thus compromising not only the dignity of the throne, but the safety of the state. Her majesty, now standing under a charge proceeding from such authority, was placed in a situation that no one before her ever stood in. It appeared to be thought that it would be necessary to suspend the charge, in order to allow time for the defence; but he did not think that her majesty would lose any thing by the inquiry proceeding immediately; for she must sustain more injury from the circumstance of this report being promulgated to the world, than she could gain advantage from any delay for procuring evidence. As the case now stood, she had no means of knowing the characters of the witnesses that were to be brought against her; even the name of the menial servant, with whom the adulterous intercourse was said to have taken place, was not mentioned. In this situation the charge was to stand against her for months; and then perhaps she would have, after all, to meet the investigation with very imperfect means of defence. He thought that justice required that her majesty should be forthwith furnished by ministers with a distinct statement of the charges, and a list of the witnesses on whose authority they were made. He concluded by saying that his object in rising was merely to enter his protest against a course of proceeding that seemed to violate every principle of justice.

The Earl of *Harrowby* thought that the noble earl might have abstained from saying any thing until his noble friend had had the opportunity, to-morrow, of explaining the course of proceeding which he thought should be adopted. He could assure their lordships that he as deeply regretted the necessity of the proceeding, and as anxiously desired to avoid agitating the public mind, as the noble earl or any other person; but he thought it requisite to make one or two observations on what had fallen from the noble earl. He had accused his majesty's government with having committed a great act of injustice by the course which had been pursued. If that course was injustice, their lordships were completely accomplices in it. The arguments of the noble earl and his friends were stated to be unanswerable; but those who were convinced by those unanswerable arguments had not thought fit that the public should know how large their numbers were. As to the inconvenience to the accused person, of which so much had been said, how was it to be avoided? Every regard had been had to the strictest impartiality in laying the proceedings before the committee. But if any member of that House had risen to propose a measure similar to that which was the object of the committee, would their lordships have allowed him to open his mouth? When the call from the accused person for trial had been so strongly made, there was no other mode of proceeding left. Before the call was made, the committee had been appointed, and then their lordships did not think it consistent with propriety or justice to change their course. But it was said, his majesty's ministers were highly blameable for not having themselves instituted a proceeding like that which it was now proposed to institute on the recommendation of the committee. And yet what the noble earl contended ought to have been done before, he now wished to delay; and alleged that to proceed would be dangerous to the tranquillity of the country. He could assure the House for himself, that if there were any part of the conduct of his majesty's ministers to which they could look back with more particular satisfaction than another, he believed it to be that which had been employed in endeavours to avoid, by some compromise, the public discussion of the present sub-

ject. Had it been possible, by allowing her majesty to spend her days in comfort in any part of Europe in which she pleased, without disturbing the country or injuring its interests, that would have been an arrangement which he was confident would have obtained their lordships' approbation; and he thought if there were any occasion on which a public man might be excused for making some sacrifice of consistency, it was for such an object. No compromise had, however, taken place, and ministers must now endeavour to do their duty in the situation in which they were placed. With regard to the difficulty of the duty their lordships had to perform, he could not think that the objection on that ground had any weight. He believed that, until the charge was proved by other evidence, the report of the committee would not be regarded in any more important light than the verdict of a grand jury. There was always an interval between the finding of a bill of indictment and the commencement of a trial; and it was never considered that that arrangement operated to the disadvantage of the accused. There were cases in which charges had been suspended for many years, and the party at last acquitted. That there should on the present occasion be some interval, was, from the nature of the case, unavoidable. His noble friend would, however, to-morrow explain the course of proceeding which it appeared most advisable to follow.

The Earl of *Carnarvon* could not admit the justice of the noble earl's comparison of the report on the table to the verdict of a grand jury. Before a grand jury found a bill, they heard a complete body of testimony against the accused. He would ask the noble earl whether the committee had examined such witnesses as a grand jury must examine before they sanctioned an accusation? Were the witnesses brought before the committee as they must have been into a grand jury-room? There was another subject, however, on which he thought it necessary to say a few words. He wished to know whether it really was the intention of the noble lord opposite to shorten the duration of the present session, in order to afford an opportunity for the exhibition of a splendid pageant, which would at present be very ill-timed. He was aware that the coronation was an occasion on which oaths were interchanged between the sovereign and his people, and therefore he did not mean to deprecate such a ceremony, though he thought it had much better be delayed. After expunging her majesty's name from the Liturgy, and bringing forward the present report, it would appear as if it had been intended to put a stain on her character in anticipation of that solemnity. The measures might with some have the appearance, not of a wish to do justice, but to throw an insult on her majesty before trial. He did not call upon their lordships to pay attention to popular clamour, but wished them to regard the feelings of that respectable part of the public which looked with anxiety as well as respect to their proceedings. Under these circumstances, he thought it would be right to suspend the ceremony. No possible danger could arise from a delay of three months. A great responsibility would be incurred by those who advised this proceeding, if, at a time when oaths were to be interchanged between the sovereign and his people, the season, instead of being one of joy and harmony, should become one of sorrow and dissatisfaction—if feelings should be excited which might unfortunately lead to some intemperate act. There were two courses before them. If one way was adopted, there would be harmony and peace. If the other, the only object for which the ceremony ought to be attended to would be defeated.

The Earl of *Darnley* was afraid that nothing but mischief could result from the report laid on the table, and sincerely wished that the proceedings had been avoided. He had before alluded to the measure of the omission of her majesty's name in the Liturgy, the injustice of which was so glaring. After her majesty had been prayed for during twenty-five years as princess of Wales, the refusing to pray for her as queen was quite unaccountable. How did it happen that she, who was worthy to be prayed for on the 29th of January, became all at once an unworthy object on the 30th, the very next day? The conduct of ministers in this respect could not be exculpated.

Earl *Grey* said, there was one point on which he was most anxious that he should not be misunderstood. The noble earl had stated, that no part of the conduct of his majesty's advisers had given them more satisfaction than that which they had pursued in the present case. He must, however, say, that if those advisers had before them evidence of the queen

having been guilty of an adulterous intercourse with a foreigner, aggravated by a long course of licentious conduct—if that charge was true, the case was one which, consistently with the dignity of the Crown and the welfare of the country, admitted of no compromise whatever. But when ministers had on former occasions been hard pressed with this argument, then the crime was softened down into family differences. Family differences were, however, not to be tried by their lordships. It was the consideration of charges derogatory to the dignity of the Crown, or injurious to the dignity of the state, to which they were to proceed. The noble earl, however, when in possession of these charges, was willing to consent to an arrangement for allowing her majesty to live abroad in comfort. But was this arrangement to take place only in consequence of family differences? No; it was after a charge of living in adultery; to continue which intercourse the noble earl was willing that 50,000*l*. a year should be taken from the pockets of the people. This he declared to be a charge which could not be compromised, and to that declaration he would adhere. The noble earl and his colleagues had, however, thought differently. If they believed the charge, they were bound to have proceeded upon it.

The Earl of *Liverpool* rose merely to say a few words in answer to what had fallen from the noble earl. The doctrine advanced by him was, that ministers had finally seen the queen's conduct in a different light from what they had done at the commencement, because they now advised inquiry, whereas they formerly showed a willingness to compromise. Now, he had not the least difficulty in maintaining that, even on the assumption of the possibility of proving every charge against the queen which had been made, his majesty's ministers had done right in offering to agree to an adjustment without a trial. He would say, that had she remained abroad, the evils attending a compromise would not have been so great as those that might be anticipated from instituting proceedings against her; and he entertained this opinion in common with ninety-nine out of a hundred of the nation. Undoubtedly, it might be said, that, if charges existed, they ought to be proved or dispelled. This, as a general maxim, might be correct; but circumstances might be such as to render the application of it to certain cases highly inexpedient. If the peace of the country, if the honour of the Crown, and the cause of public morals were involved in the question, it was not only the duty of a statesman, but of every man who was actuated by public principles, to prevent as far as possible a public proceeding like that now before the House. He therefore entirely dissented from the opinion of the noble earl; and when the proper time arrived, he should be able to defend the conduct, founded on different principles, which his majesty's government had pursued. He was not afraid to say, that though the charges were known to ministers for months before they communicated them to parliament—that though they knew the evidence on which they rested, and saw the possibility of proving them—it was their duty, in all circumstances, to prevent a public investigation. Whether the steps they had taken to prevent inquiry were prudent or no was a different question; but when the queen came to this country—when her conduct was forced upon public attention—when no medium was left between admitting her to the exercise of all her rights and privileges and allowing her full influence on the morals of the country, and proceeding against her, supposing the charges to be true, they were compelled to bring them forward. Great as the evil on this latter supposition was, it appeared to them to be the least.

The Marquis of *Buckingham* said, that the House had already concurred in the propriety of proceeding as his majesty's ministers had recommended, without knowing any of the particulars, but merely having before them the general charges. He concurred in all the votes that had been given for adjournment, in order that time might be afforded for adjustment, and he did so with great satisfaction. He wished the question not to be brought forward if it could have been prevented, because he thought it would affect the honour of the Crown, and the peace and tranquillity of the country; but when he found that all attempts at compromise had been unavailing, he as sincerely agreed in the necessity of pursuing the inquiry. The proposed duty had therefore devolved upon the committee, which duty it had now fulfilled; and if he might be allowed to say any thing concerning that committee, he would mention that the report on the table expressed its unanimous opinion on the documents laid before it.

Lord *Holland* could not allow some of the observations which had fallen from the noble marquis to pass unnoticed. It was with pain that he heard the noble marquis attempt to make the House accomplices in the proceedings of ministers—it was with pain that he saw an endeavour made to throw the responsibility of the inconsistent conduct of ministers on a majority of their lordships; but when the noble marquis went a little farther, and wished to implicate them likewise in the negotiations that had intervened, he went too far. The majority of the House stood acquitted, both of having preferred charges against her majesty, and of having attempted to compromise those charges. The noble earl had stated in loud and lofty language, that he had his reasons for believing, that inquiry, which was not necessary if her majesty had remained out of England, became necessary as soon as she returned; but he had not specified those reasons. He merely gave his opinion without producing any grounds for it; and he had forgotten that her majesty was not only to escape a trial if she remained abroad, but was to receive 50,000*l.* a year. The feelings of the country might have been interested in this question; but was that interest diminished by the presence of her majesty in England? The noble earl had alleged that ministers were driven to the course which they had adopted; but he had not explained why they were so driven. The course of these proceedings was from the beginning wrong—highly inconsistent—highly dangerous—derogatory from the honour of the Crown, and injurious to the best interests of the country. It was unjust that charges should be suspended so long as these must be before they were tried. He would again say, that the House expressed no opinion by consenting to repeated adjournments. Their lordships were told that there were hopes of adjustment, and on that presumption they adjourned the meeting of their committee; but in doing so they expressed no opinion of the charges. Neither did they express any opinion of the negotiations, of which, not knowing the strength of the evidence against her majesty, they could not know the propriety. He protested therefore against being considered as a party to a course of proceedings from which he entirely dissented.

The motion was agreed to.

HOUSE OF COMMONS.

Tuesday, July 4.

COLLECTION OF THE REVENUE.] Mr. *Hume* said, in rising to make the motion of which he had given notice, he was actuated by no hostile feeling to his majesty's ministers, who, by granting the accounts for which he had moved, had shown a disposition to admit discussion and to court inquiry. Though his own calculation differed from the official accounts in some respects, he preferred adopting the latter in all cases, to avoid any controversy on that head. The first resolution which he had to submit was merely to pledge the House to a vigilant superintendence of the public expenditure, and to a minute investigation of the mode of collecting the revenue. This, in substance, though not in form, was similar to the resolution proposed by the chancellor of the Exchequer, when he had called on the House to impose three millions of new taxes. He hoped the House would now repeat this pledge, as it was by small savings on the multiplied items of expenditure alone that economy could be effected. He could have only wished that this subject had been brought forward by an hon. baronet, who had proposed similar resolutions in the last session, and from whom they would have come with greater weight. The second resolution was a comparison of the expenses of collection of the revenue at three different times. The account of the expense at the first period was taken from the Reports of the Finance Committee, of which the late Speaker was chairman (1796-7); of the second, from the Report of the Committee, of which the member for Corfe-castle was chairman; and of the third, from the annual accounts presented to the House. The third resolution was a comparison of the nett amount of the revenue at three different periods, taken from the same sources. As the gross receipt of this revenue had been, in 1796, twenty-three millions; in 1810, forty-five millions; and in 1820, fifty five millions, it was to be expected, he thought, that the amount having much increased while the officers and boards of the revenue remained the same, the per centage should have been diminished more than it appeared it had been. The rate per centage on the gross receipt in the year 1796 was 5*l.* 0*s.* 9*d.*; in 1810, 4*l.* 12*s.* 6*d.*; and in 1820, 6*l.* 1*s.* 3¼*d.*; so that the rate of

collection, to speak in round numbers, had increased in the proportion of 20 per cent. He was satisfied that every one who examined the subject would find, that during the warfare in which this country was engaged, a considerable increase had taken place in the expenses of collection. In 1796 the charges of management amounted to 1,174,525*l.*; in 1810, to 2,591,615*l.*; and in 1820, to 8,341,283*l.* Mr. Pitt had stated himself, in parliament, that he felt it his duty to increase the rate of pay allowed to all the individuals connected with those offices, in consequence of the great rise which had taken place in the price of provisions. But the question now to be considered was, whether, as we had restored the metallic currency of the country, and arrived at a period of profound peace, the salaries so advanced would not admit of a considerable reduction, which would of course operate as a reduction in the charges of collection? He knew it to be a fact, that in all mercantile concerns, individuals were able to carry on double or treble their former business, without the addition of one half to their expenses in consequence of such increase, and he thought it only fair that the House and the country should expect a similar capability from the ministers, and should demand it from them. They had a report on their table from one of their own committees, which pointed out the astonishing increase in the charges of collection, and the reasons assigned in the report as accounting for that increase, were such as he had already described. Some few modifications were then suggested, which might have been attended with some benefit, but what that benefit was, could only appear from the result. An annual paper had been laid on the table about three days ago, from which it appeared, that instead of any reduction having taken place in the number of individuals employed, there was in the whole service of the government an addition of 72 persons, and an increase of salaries to the amount of 4,900*l.* He was justified, therefore, in concluding, with that paper on the table, that no reduction had taken place, but the contrary; and he thought that the House ought, on an early day, in the next session, to take the subject into their consideration, not as the commissioners had done, but on a principle more extended. He did not wish to cast any censure on the commissioners, whose labours were beneficial as far as they went, but the subject was one that required other and larger views of regulation. On coming to his third resolution, he had to state, that the quarantine expenses were excluded from the account of the year 1820, and yet that an increase of 82,000*l.* had taken place. The gross amount of the ordinary revenues of the United Kingdom, in the year ending the 5th Jan. 1820, was 60,318,278*l.*, and the nett produce 54,425,037*l.* which were collected at an expense of 4,226,735*l.*, or at the rate of 7*l.* 0*s.* 1¼*d.* per cent on the gross receipt, and 8*l.* 1*s.* 9½*d.* per cent. on the nett produce. In taking the amount of the rate per cent. at which the revenues of Great Britain and Ireland were collected in the year ending the 5th Jan. 1819, he had kept out the account of the post office, and the hawkers' and pedlars' dues, notwithstanding which they would find that a greater increase had taken place in the customs than in any other department.—And the average of the total revenues in each county, in England, was 5*l.* 17*s.* 10*d*; in Scotland, 9*l.* 6*s.* 11*d.*; and in Ireland, 15*l.* 8*s.* 11¾*d.* The only way in which he could account for the greater increase in the customs was by this circumstance, of its being placed under the patronage of the Treasury, while the Excise was placed partly under commissioners, who had no connection with the Treasury department. It was a wise principle in the regulation of the Excise, that promotion, with a view to the merit of the parties, was more frequent there than in any other offices under government, in most of which he regretted to say, that other interest was required. He should state one example which had come to his knowledge. It was that of the landing surveyorship of Aberdeen, which was given to a young man, the son of the chamberlain of Edinburgh, though the inferior officer who stood next had merited the promotion by an active service of 10 years. He thought, that if the Customs were placed under a board of officers, unconnected with the Treasury, a great reduction of expense might be made, even greater than in the Excise. The fact however was, that since 1810, when the act of Superannuation passed, a considerable increase had taken place in that branch of the expenditure also. In 1810, the whole amount of the superannuations was 10,000*l.*, but they had since gradually gone on increasing until now that they were upwards of 80,000*l.* The commissioners had recommended an alteration in this ro-

spect, but it gave an increased patronage to the government, and probably, was on that account continued as before. From the difference that appeared in the rates of collection in the three countries, he was induced to conclude, that much larger reductions might be made. He regretted that the right hon. member for Waterford was not present, as he would be able to state more accurately than himself, the facts relating to Ireland; but if the right hon. gentleman wished to make inquiry, with regard to Scotland, he was confident that much better information might be obtained, than by sending down some person not connected with the country. The Post-office he admitted was the most economically managed of all the departments under government; and this was chiefly to be attributed to the circumstance of its being unconnected with the Treasury. The next resolution contained a self-evident proposition, which was, that the charge of management and the charge per cent on the nett receipts from the tax on salaries might be altogether saved, by the reduction of the salaries equal to the amount of the tax, as recommended by the finance committee, in 1797.—He now came to the subject of the receivers-general of the land and assessed taxes, which he confessed was the most important branch of his motion. It was important in two views—as an expense to the public, and as an increase of the patronage of ministers. He knew it was a delicate thing to interfere with that patronage of which they stood in so much need, and expected that many persons would be startled when he stated that his object was, to abrogate altogether 160 sinecure places. His first proposition upon this subject, after stating the nature of the office, went on to assert that the service for which it was appointed might be performed at a less charge to the public, with equal security against loss, and equal efficiency to the public service. The next proposition stated that there are 65 receivers-general of the land and assessed taxes in England and Wales, who received an allowance of 40,717*l.* and 41,348*l.* in the years ending the 5th Jan. 1818 and 1819, for the duties of their office, though the greater number performed the duty entirely by deputy, and retained balances of cash in their hands, which on an average of three years exceeded 374,000*l.* per annum. These were facts that could not be disputed, and it was notorious that the deputies advanced money to the receivers-general for being allowed to do their duty. He would ask, was that consistent with the avowal of economy made by government? Besides, it should be recollected, that when the office of receiver-general was first established, there were difficulties in the way of remitting money, which existed no longer. There were now upwards of 850 banks throughout the kingdom, which facilitated the means of remittance, and therefore removed the necessity for allowing the balances to remain in the hands of the receivers-general. As these facilities increased, the per centage ought to be reduced. He wished to point out the means by which his majesty's government might do away the per centage altogether, and allow a salary equal to what might be the trouble of the office, coupled with the risk incurred in undertaking it. Why should not ministers adopt the same course which they were allowed to do by the act which regulated the collection of the post horse duty? Let the offices be put up to sale, and tenders received from persons who were willing to discharge the duties of receivers-general. The amount of the security at present demanded by government was unnecessarily large, for there was no necessity that it should exceed the amount of the sum in the hands of the receiver general at the end of each quarter. He was persuaded that in this branch of the public expenditure a saving might be effected to the amount of 60,000*l.* a year. The next branch of the subject was that relative to the distribution of stamps. It appeared that there were 95 distributors of stamps in Great Britain, who received poundage amounting to 85,303*l.* for the year ending January 1818; 88,337*l.* for that ending Jan. 1819; and that the balances of cash retained in their hands, upon an average of three years, exceeded 110,000*l* per annum. He was persuaded that individuals of equal respectability might be found who would do the duty for one-eighth of this amount.—The hon. member then entered into an enumeration of the different rates of poundage allowed to distributors since the year 1694. At present it was 4 per cent for England, and 6 for Scotland; but this rate was increased by the additional charge of penny in every shilling, a charge which was illegally exacted by the persons who sold the stamps, for it was to be recollected that the persons who pocketed

the poundage, performed no part of the duty themselves. The income of some of these distributors was enormous; one of them received 5,000*l.* in the last year, and the collector at Aberdeen received upwards of 1,455*l.* in the year 1818. He would pledge himself to find individuals of equal respectability in this town, who would do the duty as well for 3 or 400*l.* If these duties were farmed in the same manner as the post-horse duties, the country would derive the greatest benefit from such a system, not only in a pecuniary but a constitutional point of view, since it would remove some position of the overgrown patronage which was now in the hands of his majesty's ministers. The hon. member concluded by moving the following Resolutions:

1. "That with a view of accelerating the period at which relief may be afforded to the country from a part of its burthens, a continued and vigilant superintendence ought to be exercised over the expenditure of the state in all its several departments; and that a minute investigation should be instituted into the mode and expense of management and collection in the several branches of the revenue, in order that every reduction may be made therein, which can be effected without detriment to the public interest.

2. "That the ordinary revenues of Great Britain were collected, in the years 1796, 1810, and 1820, at the following rates:

Year.	Gross Receipt of Revenue.	Nett Receipt of Revenue.		Amount of Charges of Management.		Rate per Centage on Gross Receipt.		Rate per Centage on Nett Receipt.
	£.	£.		£.		£. s. d.		£. s. d.
1796 ...	23,306,718	20,281,017	for	1,174,525	or	5 0 9	and	6 1 7
1810 ...	45,602,601	41,299,023	for	2,591,615	or	5 13 7¾	and	6 5 6
1820 ...	55,096,744	49,992,394	for	3,341,823	or	6 1 3¼	and	6 19 0¼

3. "That the gross amount of the ordinary revenues of the United Kingdom, in the year ending 5th Jan. 1820, was 60,318,273*l.*, and the nett produce 54,425,037, which were collected at an expense of 4,226,735*l.*, or at the rate of 7*l.* 0*s.* 1¼*d.* per cent on the gross receipt, and 8*l.* 1*s.* 9½*d.* per cent on the nett produce.

4. "That the gross amount of the ordinary revenues of Ireland, in the year 1820, was 5,221,529*l.* and the nett produce 4,432,643*l.*, which were collected at an expense of 884,912*l.*, or at the rate of 16*l.* 18*s.* 11¼*d.* per cent on the gross receipt, and 21*l.* 2*s.* 4¼*d.* per cent on the nett produce.

5. "That the revenues of Great Britain and Ireland were collected in the year ending the 5th Jan. 1819, at the following rate per cent on the gross receipts, viz.

Country.	Customs.	Excise,	Stamps.	Land and Assessed Taxes.	Average of the Total Revenue in each Country.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
In England	9 3 8	3 19 7	2 10 8½	3 15 4	5 17 10
Scotland	16 9 0¼	7 4 10	3 17 1	5 19 4	9 6 11
Ireland ..	16 13 9¼	12 9 11½	8 5 3¼	16 19 10	15 8 11¼

6. "That the office of receiver-general of the land and assessed taxes is one of deposit, and for remittance of the taxes from district collections to the Exchequer; and, in the present state of the finances of the country, that service may be performed at a less charge to the public than is now incurred, with equal security against loss, and with equal efficiency to the public service.

7. "That there are 65 receivers-general of the land and assessed taxes, in England and Wales; who received an allowance of 40,717*l.*, and 41,348*l.*, in the years ending the 5th January 1818 and 1819, for the duties of their office, although the greater number of these receivers-general performed that duty entirely by deputy; and retained balances of cash in their hands which, on an average of these years, exceeded 374,000*l.* sterling per annum.

8. "That it appears by the returns before the House, that ten receivers-general were, since 1790, in arrears at the time of their death, or of leaving their office, to

the amount of 304,337*l.* 12*s.* 4*d.* of which amount a balance of 117,115*l.* 1*s.* 8*d.* now remains due to the public.

9. "That there are 95 distributors of stamps in Great Britain, who received allowances, or poundage, amounting to 85,303*l.* for the year ending the 5th Jan. 1818, and 88,337*l.* for 1819; and also retained balances of cash in their hands, which on an average of these years exceeded 110,000*l.* sterling per annum.

10. "That in the present state of the finances of the country, the duty of distributor of stamps may be performed at a less charge to the public than is now incurred, with equal security against loss, and with equal efficiency to the public service.

11. "That the amount of revenue from the tax on salaries in the year ending 5th January 1820, and the charges of management, were:

TAX.	Nett Receipts.	Charges of Management.	Rate per Cent on the Nett Receipts.
	£.	£.	£. s. d.
Of One Shilling in the Pound	19,353	491	2 17 4¼
Of Sixpence in the Pound	10,037	241	3 2 0
Total	29,390	732	

"Which charge may be altogether saved, by the reduction of the salaries equal to the amount of the tax, as recommended by the finance committee in 1797."

The first Resolution being put,

Mr. *Lushington* was anxious to occupy as short a portion as possible of the time of the Committee in stating the grounds of his objection to most of the resolutions of the hon. gentleman. His first resolution was unnecessary, since one to a similar effect had been voted in the last year. The second resolution was unfit to appear on the Journals of the House, in consequence of a material error which affected the calculations of the hon. gentleman. The hon. gentleman had compared the revenue of the last year with that of 1796. Now, in the revenue for 1796, the whole expense of collecting the post-horse duties was omitted; and it was obvious that this omission must have a material effect upon the whole calculations. No results could be accurate which were founded upon a comparison of the revenue in a year of peace with that in a year of war. Besides, upon a more accurate examination of his figures, the hon. gentleman would find that he had a material error in his calculation of the per centage. He had, in fact, taken one line of figures for another, and as this error vitiated the whole calculations, a proposition founded upon them was unfit to appear upon the Journals. To his third resolution he was ready to accede, but he thought it right that it should be accompanied by another resolution which he should submit to the House. With respect to the other resolutions of the hon. gentleman, if he succeeded in showing that government had paid the most vigilant attention to the means of diminishing the public expenditure, and that in fact a diminution had taken place to a considerable amount in the last year, he thought the House would agree that the hon. gentleman had laid no ground for his motion. The hon. gentleman had complained that no material reductions had followed the reports of the committee; but reforms of the nature alluded to could only be conducted in a gradual manner, and were necessarily the work of time. The expense of collecting the revenue in Scotland and Ireland had been compared with that of collecting it in England; but when the immense amount of the revenue of this country, compared with that of Scotland and Ireland was considered, it would be seen that those countries afforded no just ground of comparison. The hon. gentleman had objected to the allowances to receivers general of taxes, and had suggested other means of collecting the revenue, which he thought would be more beneficial to the country; but he (Mr. L.) totally differed from the opinion of the hon. gentleman, and he thought the House would also differ from it, when he stated that out of the immense sum of 330,000,000*l.* of the public revenue from the year 1790 up to the present period, the nominal balances in the hands of receivers general amounted only to 117,000*l.*, and that out of that sum 100,000*l.* would be collected, so that the only desperate balance was 17,000*l.* That there should be so small a deficiency out of so enormous a sum as 330,000,000*l.* was a fact which spoke abundantly in fa-

vour of the present system. As to the suggestion of the hon. gentleman, that country bankers might supply the places of receivers general, he would only observe, that it was a special instruction of the committee, that no country-banker should be a receiver, and all the cases of failure which had occurred, arose from the connexion of receivers-general with country banks. It was true that their duties were executed by deputies, but the receivers were the only responsible persons. He would add but one word upon the subject of superannuated allowances. Since the year 1810, in consequence of the abolition of fees, and the substitution of public salaries, superannuated allowances had gradually increased, but he would venture to assert, that this increase was upon the whole beneficial to the public, because persons who had become unfit for their public duties, were replaced by active officers. Upon all the resolutions of the hon. gentleman, excepting the third, he should move the previous question; and in addition thereto, he should move the three following:

"That the gross amount of the ordinary revenues of the united kingdom, in the year ending the 5th Jan. 1819, was 62,230,527*l.*, and the nett produce 55,741,098*l.*, which were collected at an expense of 4,367,750*l.*, or at the rate of 7*l.* 0*s.* 4¾*d.* per cent on the gross receipt, and 8*l.* 3*s.* 4¾*d.* per cent on the nett produce.

"That the gross amount of the ordinary revenues of the united kingdom, in the year ending the 5th Jan. 1818, was 60,450,767*l.*, and the nett produce 52,195,214*l.*, which were collected at an expense of 4,283,408*l.*, or at the rate of 7*l.* 6*s.* 5*d.* per cent on the gross receipt, and 8*l.* 10*s.* 5¾*d.* per cent on the nett produce.

"That the expense of managing and collecting the revenues of the united kingdom in the last year, ending 5th Jan. 1820, has been diminished, as compared with the years ending 5th Jan. 1819, and 5th Jan. 1818; that a minute investigation has been instituted into the mode and expense of management in several branches of the revenue, in order that every reduction might be made therein which could be effected without detriment to the public service, and that a continuance of the same vigilance is essential to the best interests of the country."

Sir *H. Parnell* maintained that the circumstances which had been stated by the hon. secretary of the treasury, did not account for the fact, that the per centage on the collection of the revenue, which was 6*l.* in 1796, was 9*l.* in 1820. Certainly, there had been some retrenchment; but the question was, whether all had been done that might be done. He was persuaded that it had not. Great efforts ought to be made to reduce the expense still more. If it could be brought down to 5*l.* per cent it would give an addition to the revenue of no less than 1,200,000*l.* In Ireland, very great abuses existed in the collection of the revenue.

Mr. *John Smith* thought the first resolution the best. In the present state of the finances of the country, he was persuaded that no man could quit the House without a wound to his conscience who did not vote for it. He had been very sorry therefore to hear the hon. secretary object to it. In Ireland among other misgovernments, the collection of the revenue was made a job; the consequence of which was, that the charge amounted to 16 per cent on the nett revenue, and 22 per cent on the gross revenue. He was one of those who thought that the whole subject of the revenue and the expenditure of the country ought to come once more under the cognizance of parliament. He had a great respect for the members of the former committees of that House on the subject, but he must say, that in some respects they had strained at a gnat and swallowed a camel. The collection of the Customs was especially expensive. He had a friend high in the Custom-house, who was well acquainted with all the details, and who had told him that he would be very glad to farm the collection at one-fifth of the present charge. Much was lost to the country by the large balances which were unnecessarily left in the hands of the receivers of the land tax. The great evil was, that the government was a government depending on influence; and that ministers were afraid to retrench lest they should lose their influence. He was persuaded, however, that if they would apply economy as a principle pervading every branch of the state, they would soon obtain more real power and popularity than by the distribution of any places which they now had it in their power to give.

Mr. *W. Smith* reprobated the large allowance made to distributors of stamps. He knew one who received 4,000*l.* a-year. Surely it would be very practicable to

get the same duty performed by responsible persons, at a much less expense. He also considered the circumstance that country bankers were allowed to be the receivers general of the land-tax a great abuse, of which abundant proof had appeared during the discussion which he some years ago originated into extents in aid. He concurred with his hon. friend in attributing the reluctance to retrenchment to the circumstance that the government was a government of influence. It had long been so, and such he feared it would continue. It ought not to be, however; and the country ought not to permit it. He also concurred in thinking that any government bold enough to put an end to the existing system, would soon acquire great power and popularity. But before that could be done, many other reforms must take place, and among them some one which would give the people complete confidence in that House. He despaired therefore of any effectual retrenchment being immediately made.

Mr. *Tierney* returned his sincere thanks to the hon. mover for having brought his proposition before the House. He had seldom heard a more clear and dispassionate statement, or one evincing greater research. He felt, however, the same despair on the subject as his hon. friend who had just sat down. The manner in which the hon. gentleman's proposition had been received, was very discouraging in this respect; and he was also discouraged by his own experience when he was a young man, and began to work on the subject of revenue. When such resolutions were moved as those proposed this evening, it had been usual to have them printed, and for the Treasury to move counter-resolutions, which being also printed, a day was fixed for the discussion of both. That, however, was not the course pursued. The first of the hon. mover's resolutions was to be negatived, and in lieu of it the hon. secretary of the Treasury moved at once a resolution, that so much had been done in the way of retrenchment, that it was only necessary to persevere. He strongly reprobated the recent practice of referring the consideration of the finances to a committee of persons appointed by the Treasury. He agreed with his hon. friend near him that at bottom all the abuses on this subject were attributable to influence; and that nothing could make an administration more popular, than fairly and firmly to set about correcting it. But he was sure that such a benefit could never be effected without support in the House, a well as out of doors. The honourable secretary of the Treasury had intimated his intention to preserve the third resolution, and to substitute for the rest a resolution, that a great deal had been done, and that it was only necessary to go on in the same course. It was odd enough to ask the House to go on in the same course without telling them what was that course. No doubt there had been considerable retrenchment, but he must know what it was before he could allow that it had been sufficient. Could any man say that the collection of the revenue ought to amount nearly to 4,000,000*l.*? On the face of it this was an enormous sum. He had no doubt that of this sum a million might be saved to the country. It was evident that great curtailments might be made with reference to the distributors of stamps and receivers-general of the land-tax. If the House negatived the resolution relative to the latter, the country could not place the smallest confidence in the disposition of the House to economise. The number of those receivers might surely be reduced, as well as their emoluments. But they were pretty pieces of patronage, and to all intents and purposes sinecures. The distributors of stamps were in the habit of performing their duties by deputy, and in this department alone a sum of 200,000*l.* might be saved; but even if it were but 10,000*l.* it would still be an important saving to the country, and would show the public that something was to be done. He was aware that he had selected the worst possible place in which to argue this question, as he saw around him many persons who were most diligent in the exercise of one of the duties of the department to which he alluded—that of receiving their salaries. If the House would take the trouble of entering into details, they would find that considerable light would be thrown on the subject. This, however, he despaired of prevailing on the House to do. But it was too much that all the resolutions should be negatived without any inquiry. He gave credit to ministers for certain retrenchments which had taken place; but he believed that those retrenchments were quickened by the votes of that House. If the present resolutions were carried, they would not pledge the supporters of them to any specific plan. They contained only a statement of facts

connected with the collection of the revenue. They only pointed out the means by which something beneficial could be done next year, or at any future period. This question had been brought forward without any view to party feelings; if then they were to throw the papers under the table, what security could the country have that any retrenchment or economy would take place? It was stated that the first resolution might be carried with some effect. If the hon. gentleman on the other side would propose any amendment, showing the amount of savings which had been made, they might work together, and let the public see that something substantial was to be done for the benefit of the country.

The *Chancellor of the Exchequer* observed, that there was no unwillingness in the House to attend to a subject which was so materially connected with the public interest. The hon mover had laid before them a number of comparative statements, which the secretary of the Treasury had answered. The collection of the revenue in different countries had been adverted to; but that was not a fair criterion for the direction of the House. It was observed, that the collection of the revenue in France was more economical than in Ireland; but as the revenue of France was principally a land revenue, it was evidently more easy to collect it than to gather in the revenue of Ireland, which comprised many different heads. An hon. gentleman seemed to reprehend the office of distributor of stamps and receiver-general of land-tax as being sources of permanent influence, and kept up for that purpose. This he entirely denied. The system had been acted on for many years, and had been found to operate beneficially. The receivers of land-tax, and the distributors of stamps, did not realise so much emolument as was imagined. They had often had reason to repent the frauds which had been practised on them without any blame being attachable to them. The balances in the hands of receivers-general and distributors of stamps were very doubtful. Though the nominal amount might be great, yet the real amount, in consequence of the number of persons employed under them, was often reduced to a very small sum.

The previous question was then put and carried on all Mr. Hume's resolutions excepting the third and sixth. The third was agreed to; and on the sixth the House divided: Ayes, 99; Noes, 124. The first and second resolutions proposed by Mr. Lushington were then agreed to; and the third was withdrawn.

List of the Minority.

Althorp, visct.	Maberly, W. L.
Anson, hon. G.	Macdonald, J.
Boughey, sir J. F.	Mackintosh, sir J.
Barnard, visct.	Maule, hon. W.
Barrett, S. M.	Monck, J. B.
Beaumont, T. W.	Moore, P.
Benyon, B.	Newport, sir J.
Bernal, R.	O'Grady, S.
Burdett, sir F.	O'Callaghan, J.
Bury, visct.	Osborne, lord F.
Byng, G.	Palmer, C. F.
Bright, H.	Parnell, sir H.
Corbet, P.	Peirse, H.
Calcraft, J.	Powlett, hon. W.
Calcraft, J. H.	Pryse, P.
Calvert, C.	Pym, F.
Campbell, hon. J.	Ramsay, sir A.
Chamberlayne, W.	Ricardo, D.
Carew, R. S.	Robarts, A.
Carter, J.	Robarts, G.
Clifton, visct.	Robinson, sir G.
Coffin, sir I.	Rowley, sir W.
Crespigny, sir W. De	Russell, lord G. W.
Davies, R. H.	Smith, hon. R.
Denison, W. J.	Smith, J.
Denman, T.	Smith, S.
Duncannon, visct.	Smith, A.
Fitzgerald, lord W.	Scarlett, J.
Fitzgerald, rt. hon. M.	Scudamore, R.
Fitzroy, lord C.	Stewart, W.
Grant, J. P.	Stuart, lord J.
Graham, J. R. G.	Sykes, D.
Griffith, J. W.	Tremayne, J. H.
Guise, sir W.	Tulk, C. A.
Heygate, ald.	Tynte, C.
Hamilton, lord A.	Townshend, lord C.
Harbord, hon. E.	Tavistock, marq. of
Heathcote, G. J.	Tierney, rt. hon. G.
Heron, sir R.	Wynn, C. W.
Hill, lord A.	Whitmore, W.
Hobhouse, J. C.	Webbe, E.
Honywood, W. P.	Wharton, J.
Jervoice, G. P	Whitbread, S. C.
Langston, J. H.	Williams, T. P.
Littleton, E.	Wilson, sir R.
Lambton, J. G.	Wilson, T.
Latouche, R.	Wyvill, M.
Lemon, sir W.	TELLERS.
Lloyd, sir E.	Hume, J.
Lushington, S.	Smith, W.
Maberly, J.	

THE LATE KING'S PRIVATE PROPERTY.] Mr. *Hume* said, that the motion which he was about to introduce to the House was one most worthy of their serious consideration, as it related to the private property left by his late majesty. He then proceeded to explain how the law

had formerly regulated the disposal of such property. In 1800, it was thought fit to alter that law, but with what propriety it was not for him to determine; he would only say, that the policy of altering it had been doubted by many. By the act of the 39th and 40th of the late king, it was declared that, as his majesty had purchased many manors, lands, and tenements, from the accumulations of his privy purse and other sources, it was fitting that he should have power to dispose of those manors, lands, and tenements, as he should think proper, except where any of them had devolved to him from the kings and queens of England. The manner in which they were to be disposed of was thus described in the act—"All manors, lands, and tenements may be disposed of by the king in writing, under the sign manual of the king himself; but if disposed of in any other way, such disposition is null and invalid." The consequence of this enactment was, that if they were not disposed of they reverted to the Crown, just as they would have done had no such law been enacted. That they did so revert under the former law, he would prove by the opinion of four eminent lawyers who had been consulted on the subject on the demise of George 1st, in 1727. In that opinion it was declared that the private property of the Crown could not be disposed of by will, and in consequence George 2nd had set aside a legacy of 27,000*l.*, given to sir R. Walpole, in trust for the countess of Kendal, on the point of law. Therefore, if, in the testamentary disposition of the late king, the mode prescribed in the act of the 39th and 40th of his reign had not been followed, the property must be disposed of as it would have been previous to the passing of those acts, and such must have been the understanding of parliament at the time, or they would have so declared it by some explanatory words. There was however, some difference introduced into this case by the Regency act, in which the queen, the Prince Regent, and the keeper of the privy purse, were appointed trustees to his majesty's private property. He would not refer them to the act under which commissioners for the management of his majesty's property were appointed. It was well known who those commissioners were. The act of the same year, ch. xiv. still more particularly regulated the subject; and this was passed in December, 1812. It appeared, on the whole, that so long ago as 1800, his late majesty was possessed of freeholds, manors, &c. to a very considerable amount and extent, for the management of which the commissioners in question were appointed. He did conceive that a large property, therefore, existed; the produce of which was ordered to be invested in the same manner as capital, until such time as his majesty's recovery might enable him to direct the further disposal of it. It was the duty of his majesty's ministers, immediately on the demise of the Crown, to take possession, or endeavour to do so, of the property belonging to his late majesty, in just the same manner as he (Mr. H.) should consider himself as heir at law authorized to take possession of the property left by his father, unless some one stept in with a will or other instrument to bar his right. Now, if they had done this, they had done rightly; but he was at a loss to imagine what could have been the bar in this case, unless some will were in existence which prevented their proceeding. He was induced to submit the motion he should make, in consequence of the profound secrecy with which the whole transaction had been conducted. He had heard it was once intended that a great proportion of his late majesty's property should be divided among his sons, then living. Supposing it were 50,000*l.* or 1,000,000*l.*, for the amount made no difference, as far as regarded his argument; but let them suppose that property was worth 1,000,000*l.*, and that by this will the royal dukes had become possessed of 200,000*l.* or 300,000*l.* a piece. Would that House, in such a case, conceive itself warranted to vote those illustrious persons the same allowances after such an accession of property, as it would have done supposing no such event had occurred?. He thought himself bound to ask his majesty's ministers what had become of this property, unless a will had been actually found; and if one had been found, why had there been all this secrecy about it? If it should appear that a will had been found, but that it was not made according to statute, if his majesty's ministers had done their duty, they should have brought it forward and submitted it to parliament long ago. He should move, therefore, "For copies of any minute or minutes of the lords of his majesty's Treasury, respecting the private property of his late majesty; also, copies of any proceedings or correspondence which have

taken place between them and any other persons, to ascertain the amount of such property."

The *Chancellor of the Exchequer* expressed his conviction, that the House would agree with him in thinking that no inquiry should be entered into with respect to the private affairs of the royal family, unless under circumstances of imperious necessity; and as no such reason could be adduced in this case, he trusted the House would see that the hon. member's motion was unnecessary, especially after the explanation which he had to offer. Since the death of the king, a testamentary document had been found among his majesty's papers, and the subject had been referred to the consideration of competent persons, who had not yet made their report. But whatever the decision of those persons might be, there was no question whatever that the property of the late king devolved upon his present majesty. But as to the amount of that property, the hon. mover had been very much misled, for that property comprehended about 90,000*l.* in money and stock, together with some freeholds, and the king's establishment at Weymouth, making altogether a sum very far short of what the hon. mover had stated. What claims there were upon the 90,000*l.*, he was not yet enabled to state, nor could he say what was the value of the property at Weymouth until it were disposed of, and it was intended to advertise it for sale as soon as the report alluded to was made, as the retention of that establishment was unnecessary for the accommodation of his present majesty. Under these circumstances, he trusted it would not be necessary to press the motion.

Mr. *Hume* said, that after the explanation which the House had heard, he had no objection to withdraw his motion, declaring that he should not have brought it forward if it were not for the refusal of the noble lord to make any answer to the question which was put to him last night. It would be admitted, however, that the motion would produce a satisfactory result, by doing away with the exaggerated reports which had gone abroad respecting the amount of the private property of the late king.

Lord *Castlereagh* said, that he could not feel himself at liberty to answer any questions affecting the private affairs of the Crown, without special authority. It appeared, however, that the hon. mover, as well as other members, was quite mistaken, as he last night stated, with respect to the late king's private property, which, so far from amounting to a million, did not, in fact, exceed 104 to 105,000*l.*

The motion was withdrawn.

HOUSE OF LORDS.

Wednesday, July 5.

ALIEN BILL.] Lord *Holland* said, he had a petition to present relative to an act of parliament, which, having now ceased, he might without scruple describe as most unconstitutional. There were points contained in this petition to which he wished to direct their lordships' most serious attention. Besides stating broad constitutional grounds against the measure, the petitioners urged particular reasons for not passing the act at the present moment—reasons which showed how often it happens, that when governments deviate from the strict line of constitutional principle, they were very apt to involve themselves in embarrassment and difficulty. He therefore trusted that their lordships would not pass the bill at all if it came before them; but if they did proceed with it, he hoped they would introduce a clause to secure against its operation all persons called as witnesses on either side in the important proceeding upon which they were about to enter. This he should think would be but just and fair at any time or in any case; but how much more so when the proceedings in which their lordships were about to be engaged were of a judicial nature, and had for their object acts alleged to have been committed abroad? The petitioners stated, that the act, if passed would put it in the power of ministers to send out of the kingdom all foreigners who might be able to give evidence, or whom they might suppose to be able to give evidence, in favour of her majesty, and to give protection to all who might now be disposed to give evidence against her, or hereafter be brought forward for that purpose. He thought the particular objection highly important, and the constitutional ground on which the petitioners prayed that the bill might not pass would surely obtain their lordships' most anxious consideration. It was necessary that all ground of suspicion of partiality should be removed. Hostile as he was to the act, he was most desirous that it should be rejected; but if it were entertained by their lordships, he thought

it would not be possible for them to pass it without introducing some clause to protect the witnesses alluded to in the petition from any authority which might otherwise have the power of molesting them.—The petition, which was from certain inhabitants of Westminster, was then read, and laid on the table.

PETITION FROM THE QUEEN.] Lord *Dacre* said, he held in his hand a petition from her majesty. Her majesty expressed her surprise at the nature of the document on their lordships table. She also stated, that she had a variety of weighty matters to urge for their lordships consideration, and that it was most important that she should be heard in this stage by counsel. He should merely remark, that when her majesty stated that it was necessary for her defence that she should be heard at this period, he did not think it would be becoming in their lordships to refuse her prayer. He would add, that he had been assured from a quarter, the authority of which he could not doubt, that to allow her majesty to be now heard by counsel, instead of delaying, would greatly tend to expedite the proceedings in this very lamentable case. He moved that the petition be read. It was as follows:—

"CAROLINE R.

"The Queen observing that a most extraordinary report has been presented to the House of Lords by their lordships secret committee, and now lies upon the table of the House, represents to the House that she is prepared at this moment to defend herself against it as far as she can understand its import; and has also various weighty matters to urge to their lordships touching the same, and which it is absolutely necessary for her future defence to have stated at the present stage of these proceedings:—The Queen therefore desires that she may this day be heard on the subject matter thereof, by her counsel."

The Earl of *Liverpool* could see no ground for such an application as that which was now made, merely on a notice for the introduction of a bill. It really appeared to him, that the advice which must in this instance have been given to the illustrious petitioner was of a most extraordinary nature. She applied to be heard in the present stage by counsel; but their lordships were as yet in no stage whatever of the proceeding. A committee, appointed by their lordships, had made a report. On that report an individual member of the House had given notice that he would present a bill. This was all that had been done, and he could not understand on what principle this could be considered an occasion for hearing counsel. If the noble lord waited until the bill was introduced and read a first time, it would be competent to him to renew his application, on the propriety of which their lordships would then decide; but at present it appeared totally irrelevant. If he was permitted to lay the bill on the table, a copy would be sent to her majesty, and then would be the time to state any objection which it might be thought fit to make to the measure.

Lord *Dacre* was aware that he was placed in a difficult situation when he offered the petition to their lordships; for, as he was not acquainted with the circumstances on which the application was founded, it was not in his power to state particular grounds for inducing their lordships to grant the prayer of the petition. He was, therefore, obliged to confine himself to general reasons, or to suppositions. The noble earl had made it an objection to the application, that her majesty had no regular means of being acquainted with their lordships' proceedings. Now, though no regular communication had been made, was it not a sufficient ground for presenting a petition, when an individual of high station, like her majesty, heard of such a step being intended as the bill of which the noble earl had given notice? If her majesty thought it necessary to make some statements which she believed it would be important to her interests should now be heard, would their lordships refuse her prayer? He had stated that he was not acquainted with the reasons of her majesty's application; but he would put a case hypothetically. He would suppose—but he begged to be understood that he had no information whatever on the subject—that her majesty wished to submit to their lordships, by counsel, reasons why the proceeding against her should not be by bill. The noble lord had argued that the period for considering her majesty's application would be when the bill was on the table; but if the ground of the application was what he supposed, the proper time would then be passed. Her majesty might have strong grounds for preferring a judicial to a legislative proceeding. Considering,

then, the high station of the illustrious petitioner—considering the delicate situation in which she was placed—and considering also the interest which these proceedings had excited from one end of the country to the other, he trusted their lordships would pause before they excluded her majesty from making any statement important to her honour and character—perhaps even to her life..

Lord *Ellenborough* could not admit that the situation or rank of the petitioner afforded any reason for their lordships departing from their usual course. Whether a petition came from a princess, or from one of the lowest subjects in the kingdom, their lordships were bound to act according to the principles of equal justice. He therefore thought that the House would best perform its duty by refusing to extend any facility in the present case, which they would not be inclined to grant to another person under similar circumstances. He would vote against the petition for this reason—that it asked that which, if prayed for by any other individual in the country, would not be granted.

Earl *Grey* admitted that the question under consideration was one of some difficulty, but he reminded their lordships that that difficulty arose out of the extraordinary course of proceeding which they had thought fit to sanction on this unhappy occasion. In the sentiment expressed by the noble lord who spoke last, that it was the duty of that House to administer impartial and equal justice to all persons, whether high or low, he most sincerely concurred; but at the same time he must observe, that the present was a case so peculiar in its circumstances, that ordinary rules did not apply to it. Her majesty was arraigned by a committee appointed by their lordships on charges unheard of in modern times. He must ask, then, whether the particular circumstances of such a case did not require particular attention on the part of their lordships? At the same time he was far from proposing that an undue advantage should be extended to her majesty. All that he desired was, that she should not come before them under any disadvantage from the course of proceeding they had adopted. And here let him ask, in what situation her majesty stood? Their lordships were not informed of the particular object of the bill which the noble earl was about to introduce; but he would suppose that it might be a bill for the dissolution of the marriage of her majesty with the king. Then how different would be the situation of her majesty from that of every other individual against whom a proceeding of divorce is instituted! No case of the kind could ever come before their lordships, unless previous proceedings had been gone through in the ecclesiastical court, and some one of the courts below. The effect of this course was, to give the party accused full possession of all the particulars of the charge, and the details of the evidence to be brought against her. Of that advantage her majesty was deprived; but she was placed under the great disadvantage of their lordships' committee having reported, that evidence, supported by the testimony of various persons, charged her with an adulterous connexion of the worst description, and with a long course of licentious conduct. He would ask, then, whether, under this peculiarity of situation, it was not natural that her majesty should wish to have the opportunity of counteracting the impression which such a report might make on the public, if not on their lordships? The noble lord opposite had observed, that her majesty could have regularly no knowledge of the proceeding which had taken place in the House. This objection had been already answered by his noble friend who presented the petition; but he must take the liberty further to remind their lordships, that this was not the first petition which had been presented from her majesty. One had been laid on the table, and counsel heard on it, before the committee proceeded to their inquiry. It was not then stated, that her majesty could have no knowledge of the appointment of the committee, though of that appointment she certainly could have no more regular knowledge than of the report. He confessed that he felt that there was, to say the least, much inconvenience in the proceeding then adopted. He was not satisfied in his own mind of the propriety of allowing counsel to be heard against the appointment of the committee. He was, however, unwilling to object to the proceeding, lest the result should have conveyed the appearance of the House being disposed to prevent a course which was thought necessary to her majesty's defence. On that account he acquiesced in the motion. But as their lordships did not object to hearing counsel on that occasion, he must observe, that on comparison her majesty's claim to be heard at

present was much stronger. The noble lord objected to counsel being heard, because this was no stage of the proceeding. He would be glad to know in what stage their lordships were when they heard counsel before? The question was not whether the report could come regularly to her majesty's knowledge or not: it appeared to him that a sufficient ground for her application was laid, when she stated that she had weighty matters to submit which it was important that their lordships should hear at this time. Considering the deep sympathy taken in her majesty's situation—considering the agitation into which the public mind was thrown by the proceedings—though it would be far from his inclination to advise their lordships to yield to any popular clamour, he did think that, when such a claim on their justice as that which now came from her majesty was made, it could not be either for the public interest or the honour of the House to stand too much upon precedents. It had indeed been repeatedly stated, on all sides, that this was a case without precedent. It therefore was one in which their lordships could not be bound by the rules applicable to common cases. Without venturing to give any positive opinion, he had thus stated the grounds on which the inclination of his mind led him to conclude that the prayer of the petition ought to be granted.

The *Lord Chancellor* declared, that he entered on this question, as he would on every other connected with the present proceedings, with an impartiality which could not be affected by any thing that might have occurred in the late investigation. He had heard a great deal on that and former occasions of objection to the inquiry by a secret committee. On this subject it was not his intention to say a word more than this—that he did not think their lordships could have acted rightly without adopting that measure, and that ministers would have violated their duty had they not proposed it. With regard to the present question, he would be glad to know where, in the history of parliament, it was to be found that counsel were ever admitted to be heard against a measure of some kind or other not yet submitted to their lordships, but which some noble lord was expected to propose. Would their lordships consider for a moment what would be the consequence of such a practice? He did not go the length of saying that a bill must on every occasion be received on its being offered to their lordships' consideration; but their practice differed thus much from that of the other House of Parliament—that when a noble lord had to present a bill, he did not ask leave to bring it in. Now, let the subject who petitioned be high or low, he would ask their lordships whether they were prepared to hear counsel against the privilege of a peer to present a bill? [No, no, from the opposition side.] He thought, however, that was in effect the object of the petition. He was anxious that, in all their lordships proceedings, impartiality should be observed. He should be ashamed of himself as a peer of parliament, if he did not know, when he came to decide on a case, how to dismiss from his mind every thing that passed in a preliminary inquiry. There were cases in which juries would, in the same manner, have to pay no attention to preceding evidence. Suppose an accessary to a crime admitted an evidence, and, confessing his guilt before a jury, did not tell all he knew, and should therefore be put on trial himself before the same jury that had heard his confession;—that jury, would not be warranted in finding him guilty unless the charge was supported by other evidence. Their lordships ought to take care that rights which they possessed for the benefit of all the community were not infringed on account of a particular case. Was it ever before imagined that counsel could be heard against the right of a noble lord to present a bill? This appeared to him one of the most extraordinary and inadmissible propositions ever made to the House.

The Marquis of *Lansdowne* maintained, that all the inconvenience which had been felt, and the threatened injustice which was now complained of, had arisen from the extraordinary course of proceeding proposed by the ministers of the Crown, and acceded to by their lordships. Every word uttered by the noble and learned lord on the woolsack, against the agreeing to the prayer of this petition, applied with much greater force to a proceeding already adopted, namely, the hearing of counsel on a former occasion, in consequence of an application from her majesty. For what was the nature of that application, and what was its tendency? The noble and learned lord had maintained, that the present petition had a tendency to intercept the course of their proceedings. Now, if there ever was an

application which tended more than another to intercept their proceedings, it was the queen's former message. The application, then, was intended not directly to oppose the adoption of a measure against her majesty, but to prevent the House from making itself acquainted with the king's message, which it had appointed a committee to investigate. The House alone was the fit judge to decide whether it would make itself acquainted with the contents of the papers submitted to it by the Crown; and yet, on the allegation that the queen might be affected by the result of its inquiry, her majesty's counsel were heard against entertaining that inquiry. How did the case stand now? The proceeding of their lordships at present assumed a distinct character of charge and accusation against the queen. The question was not now, whether the secret committee should meet and examine documents affecting her interest and character. They had examined those papers, and had embodied the charges contained in them in the report on the table. Against that report the application of her majesty was directed; and when it was stated by the noble lord that her majesty had no means of knowing, without a breach of privilege, what was going on in their lordships' House, he would call their lordships' attention to the introductory sentence of the message which they had received from her majesty a few days ago:—"The Queen," it said, "having been informed that proceedings are about to be instituted against her in the House of Lords, feels it necessary to approach your lordships as a petitioner and a fellow-subject." The noble lord then acquiesced in the propriety of her possessing that information, the knowledge of which now was declared irregular, and was to be made the ground for resisting the application which proceeded from it. The noble and learned lord on the woolsack had not only denied that her majesty could be cognizant of the proceedings of the House, but had gone further, and had said the petition could not be complied with, because it was directed against a bill not yet submitted to their lordships, and consequently not known to be in existence. When he heard the noble and learned lord making use of this language, he could scarcely believe his ears. The expression of being heard against a bill was not to be found in the whole of the petition. Her majesty made no mention of a bill, or of any intention to introduce one. She stated, that she had been informed that a report was presented to their lordships from a committee to whom certain papers were submitted, and prayed that she might be heard by her counsel to answer the allegations of that report, on which future proceedings were recommended, and to state certain facts necessary for her future defence. He, in perfect ignorance of the reasons which her majesty might allege by her counsel at the bar—in perfect ignorance of the nature or the importance of the information which she offered to communicate—in perfect ignorance of all that she wished or intended to state, was compelled to admit the possibility of her being able to bring forward sufficient objections against the mode of proceeding in contemplation, to prevent its adoption. Feeling, therefore, that this might be the case—feeling that important explanations might be given—feeling that sufficient reasons might be adduced for abandoning the intended measure, or materially altering its nature—feeling that the rule which their lordships were now urged to enforce had been broken through in an instance much less connected with public justice—and being convinced that, though some inconvenience might result from departing from their accustomed forms, or establishing a new precedent, their course, in complying with the prayer of the petition, would be conformable with that justice which they were anxious to administer, and evince that impartiality which they were desirous to exhibit; he would vote for granting the prayer of the petition.

Lord *Redesdale* apprehended that there was a great difference between the circumstances in which the last application had been received, and those which attended the present. In the former case, there was a proceeding before the House which her majesty prayed might be abandoned—in the present, there was none. But what was the prayer of the petition? It was that the queen might be heard by counsel, to state certain facts necessary for her future defence. It was not for her present defence that she was to make these statements, nor did they relate to any proceeding on a specific charge. If, then, their lordships should agree to hear counsel on an application so indefinite, how could their lordships limit their arguments? They might go on to any length—they might talk of every thing or any

thing that they might think necessary for her majesty's future defence. The proceeding appeared to him of an extraordinary nature, and, though shown to be analogous to one previously adopted, was not therefore justifiable. Because their lordships might have acted wrong once, that was no reason why they should act wrong a second time.

Lord *Holland* said, that the noble and learned lord who had just sat down had quite mistaken the objects of the petition. They were twofold. The petition prayed, first, that her majesty might be heard by counsel against certain allegations in a report before their lordships; and secondly, that she might be allowed to communicate certain weighty matters connected with her future defence. He admitted that this was an extraordinary proceeding, and that a compliance with the petition 'would be a departure from the usual forms of their lordships' House; but when this was stated was it to be forgotten that their forms had recently, in this case, been violated? The noble earl opposite had said, that the report on the table could not properly be known beyond the walls of the House; but was this an answer to her majesty, who, having been informed of its nature, prayed to be heard by her counsel against its allegations? He knew that, strictly speaking, nothing could be known or taken notice of out of parliament which took place within it; but was this rule always or even generally, observed? When an impeachment was brought against any noble lord before the other House of Parliament, the party was allowed, on application, to be heard in his defence; and it was never pleaded, in bar of his being so heard, that he must necessarily be ignorant of the existence of the charge. There was here a charge against her majesty in the report of a secret committee. If the House were to follow the strict rule in one case, they ought to do it in all; and he would engage to show precedent for granting the prayer of this petition, if the noble lords opposite would show him a charge of criminality on the report of a secret committee. The whole course of proceeding in this case, was of an anomalous and unprecedented nature; and when rules were violated to the prejudice of her majesty, it was not asking too much to require the same indulgence for her defence. A noble lord had said, that justice should be administered with an impartial hand to all ranks; and that he would not grant more to the illustrious petitioner in this case than he would to the meanest subject. But if she could claim no advantage above her fellow-subjects, ought she to be subject to any additional inconvenience? and did the noble lord mean to say that the lowest subject of the land would be exposed to the imputations of a green bag report, without an opportunity of refuting or contradicting them? The whole proceedings were at variance with justice and precedent, and precedent was only pleaded as a bar to justice. From the beginning to the end of them there had been no rule, no form, no precedent, no regularity. Looking at the case, and taking into view the whole of what their lordships had done, he would say, that it was one to which the forms of law could not apply, and therefore their lordships had fallen into so many anomalies; but if there had been a departure from form and precedent in the prosecution, was it right that the illustrious personage affected by these irregularities should, in making her defence, be fettered down to the strict forms of law? It was wrong to attend to forms, when, by adhering to them, substantial injustice would be done. All forms that broke through the laws of substantial justice should be disregarded; and parliament, especially in a case which was confessedly without precedent, should not enforce the observance of forms which would take away from an accused party any means of defence. He could not but observe on one remark that had fallen from the learned lord on the woolsack. The learned lord had said, in speaking of the report on the table, that their lordships who had made it could dismiss from their minds as judges, the impressions which they had received as members of the committee; and he had illustrated his observation by referring to the case of a jury, before whom a person who had been heard, as a witness, confessing his guilt, should afterwards be tried as a criminal denying it. Now, he would say, that the cases might be parallel, if the latter were true; but he apprehended that the same jury could not try the two cases, and that the criminal would bring a valid objection against any juryman in the second case, by saying that he had sat in the box when the first was tried. In saying this he did not mean to assert that all the noble lords who composed the committee must ne-

cessarily be prejudiced; but he would maintain, that by the analogies of law, they had disqualified themselves from sitting as judges by reporting as a committee. The whole of the proceedings had, indeed, been most irregular and unprecedented. A report had been made on documentary evidence—evidence not known to be received, legally speaking, under the sanction of an oath. Against that report her majesty prayed to be heard by her counsel. It was perfectly true that the petition was unusual, as it was directed, not against any known act of their lordships, but against a prospective measure, and offering information necessary for a future defence; but if this proceeding was extraordinary, it arose out of a course of extraordinary proceedings, which constituted its justification. A learned lord had said, that though their lordships might have acted wrong formerly, that was no reason why they should act wrong again. But strong objections existed against the former petition which did not now exist. If they compared this case to an impeachment, the analogy would be in favour of her majesty's counsel being heard. She would have been heard in such circumstances in the House of Commons. The report against which she prayed to be heard recommended a legislative proceeding. Now the facts which she might communicate, or the defence that she might make in this stage of the business, might tend either to quash proceedings entirely, or show the propriety of adopting a measure different from that contemplated. A crime was alleged—a form of proceeding was in consequence recommended; and her majesty stated, that she had a contradictory statement to make to the charge, and weighty matters to bring forward regarding her future defence. It might not be regular to hear her defence, if the precedents of common bills were followed; but no fixed precedents for bills of attainder and bills of pains and penalties existed. They had been often passed, but they were always considered anomalous. There had been many observations made about them lately, but it had never been said that the common rules followed in passing other bills were to be observed. He did feel this petition to be irregular, if common forms were to be adhered to—he did feel it an intrusion—he did think it an extraordinary step; but as their lordships had themselves departed from precedent in the way of bringing accusation, they should now allow a departure in the line of indulgence, and extend that privilege in defence, which they had exercised in the charge.

The Marquis of *Buckingham* concurred with his noble friend, that the House had placed itself in a situation of some difficulty, by agreeing, in the former instance, to hear counsel at the bar. But there was this difference between the present case, and that in which the petition was assented to; that then there was a proceeding pending, whereas now there was none. In the former instance their lordships had appointed a secret committee, they had suspended the sitting of that committee, and in the interval her majesty had applied to be heard by counsel, against the proceeding. It was possible that their lordships might, after the arguments of counsel, have prevented the meeting of the secret committee, and voted that they should proceed no further. But what was their situation now? The committee had made their report, and the noble earl had given notice of a bill founded on that report: in the interval there was no proceeding. Suppose, then, that the counsel were permitted to plead, on what proceeding could the House divide, after having heard the arguments? They would not determine that the noble lord should not bring in his bill. What then could they do the moment after counsel had withdrawn, which they could not have done without hearing one word of the argument? Her majesty did not pray to be heard against the proceeding. There was none before the House. When the proceeding was instituted, then was the time to make any application connected with her defence, and God forbid that he, or any one, should object to grant any thing, which might be necessary to her defence, or, if possible her justification.

The Earl of *Darnley* contended, that the report of the committee was a proceeding of the most serious nature, on which her majesty had a right to present a petition. The situation in which they stood was one in which they had no analogy to guide them, and they were placed in that situation by a series of measures which appeared to him objectionable in many respects. But how did they stand at present? After referring the case of the queen to a secret committee, her majesty had petitioned to be heard by counsel. He knew nothing of the facts; he wished much that it was

possible for him to know no more; but if they refused the request of the queen in the present instance, it would seem as if they had not granted her all the advantages which her defence required. He trusted, therefore, that the House would not refuse the application.

Lord *Dacre* again stated the two objects of the petition, namely, first, to repel the charge in the report; and, 2dly, to state certain weighty matters necessary for the future defence of her majesty. Thinking that her majesty's counsel ought now to be heard in support of these points, he would move that they be now called in.

The question was put and negatived.

BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.] The Earl of *Liverpool* said, that in rising to propose the bill founded on the report of the secret committee, he thought it unnecessary to enter into any statements for the purpose of impressing on their lordships the importance of the measure. The preamble of the bill spoke for itself; and it would undoubtedly be for those who would be employed officially in conducting the prosecution to prove at their lordships' bar the truth of the allegations contained in that bill. Under these circumstances, he should most deeply regret if, in this stage of the proceeding, any thing should take place in that House to create more prejudice in the public mind, or in the minds of their lordships, than must unavoidably arise from the nature of the accusation. With respect to the course of proceeding which had been adopted, he certainly did not feel disposed to revive former discussions; but he must say, after having consulted his noble and learned friend on the woolsack, and after having given the best consideration to the question, that if he had now to retrace the steps he had taken, he knew not how he could move in any other course than that which had been decided on. He knew it had been thrown out that the course of impeachment was open to their lordships. He had then stated, what difficulties he conceived to lie in the way of such a proceeding; and, without going over his argument again, it appeared to him to be a matter of grave doubt whether a constitutional impeachment could lie, if he might use the expression, on account of the commission of a crime not recognised by the common law of this country. He thought he said enough to justify government in adopting the course that had been taken, when the propriety of proceeding by impeachment rested only on a doubtful opinion. Some of the highest law authorities in that House entertained the opinion that they could not proceed by impeachment. This doctrine was held by his noble and learned friend on the woolsack, by another noble and learned lord (Erskine) who had filled that situation, and by a third who had borne a distinguished part in the administration of the criminal law of the country. On a question of this kind it was necessary to proceed on safe grounds, no matter what feeling might be attached to it. Here a point of doubt was raised, and it was to be considered, whether, in consequence of that doubt, any proceeding in the nature of impeachment might not have failed, not on account of the substantive merits of the case, but wholly in consequence of pursuing a wrong course in the first instance. Therefore he must contend, that a bill, in the nature of a bill of pains and penalties, was the most proper measure to be tendered to their lordships. Indeed, it was the only measure that was fairly open to parliament on this occasion. Their lordships were all aware, that this was not a subject on which proceedings in the ecclesiastical courts, or the courts of common law, could be taken. If therefore, proceedings could not be instituted there and if they could not institute an impeachment, justice could only be obtained through the means of some legislative proceedings to be pursued in parliament. This had already been stated in the House, and the only question then for consideration was, in which House of parliament the proceedings should most properly commence. He had stated, that by the law and constitution of the country it was competent for either House of parliament to take this step; but he had also stated, at the same time, that it was more particularly fitting that the proceeding should commence in the House of Lords. From the fairness of the mode of trial in that House, and the power their lordships had to examine evidence on oath at their bar, he conceived there was a greater chance that substantial justice would be done between the parties there than in the House of Commons. He might state farther, that though this could not be considered a bill of divorce, in the common and ordinary sense of the word, still its effect would be the same. The king and the queen did not come be-

fore them as individuals; it was a question between the accused party, in her capacity of queen, and the state itself. Yet as it must necessarily relate, in some degree, to the marriage-contract between the king and the queen, it was on that ground more consistent with the dignity of the parties that it should come there, than be brought in the first instance before the other House of parliament. The only question that remained was, whether this bill should have been brought in originally under the responsibility of the executive government, or whether it was not more proper to submit the documents in the first instance to a secret committee. He had reconsidered this question: he had reconsidered it with reference to principle and to precedent; and he had no hesitation in saying that, with reference to either, he thought the course adopted by their lordships was the just one. He would venture to say, that there could be found no instance where measures of this kind were adopted without previous inquiry. When he said this, let it not be supposed that ministers wished to shrink from responsibility. The precedents which they had followed would not weaken that responsibility; their wish in calling for a committee was, not to bring forward any measure on the mere *ipse dixit* of the ministers of the day, but to have some intermediate inquiry, which might prove that there was a proper ground for the present proceeding. He had already said, that a thousand reasons might so operate on the minds of a committee as to induce them not to make such a report as had been made, and which could not be considered as judicially sufficient. But, if such were likely to be the case, what would be the danger of a disclosure of the evidence which must, in the first instance, have accompanied a proceeding by ministers? They had carefully abstained from any disclosure of that nature before the measure was actually brought in, because they wished as far as possible to avoid prejudicing the case of the accused party. He was, however, free to say, that the bill on their lordships' table, founded on the allegations contained in the report, did tend to create some degree of prejudice: he was ready to admit that fact: it was an unavoidable consequence; for there was nothing in the form of justice, though it went to protect an individual who was accused, that did not tend to excite some prejudice. Even where a person was taken into custody, and brought before a magistrate on oath, though the administration of the oath was meant to assist the individual accused, still it went, to a certain extent, to raise a prejudice against him: it was a circumstance that arose out of the very nature of justice itself. It was, in such cases, necessary to consider the two branches of the question, and to decide whether the advantage to the individual accused, and for whose protection the law was intended, was not greater than any temporary prejudice to which its administration might expose him. The present question was, however, one of a most extensive nature: it was one in which great state considerations interfered, as well as others of a more private and delicate character. Therefore it was that he conceived the course now about to be pursued was the best: it combined the sound and substantial principles of justice with a proper view of the practical end that was sought to be obtained.—He would now state to their lordships what the nature of the bill was. It was a bill of pains and penalties, and its preamble would point out with as much particularity as was ever displayed in any criminal case, and as much as the nature of the circumstances required, the offences charged against the accused party. Assuming that the allegations in the preamble were proved, it proceeded to deprive her majesty of the title, prerogatives, rights, privileges, and exemptions of queen-consort of this realm, and it also went to dissolve the marriage between his majesty and the queen. This was the nature of the bill, which enacted no penal consequences over and above those he had stated. It had been endeavoured to frame the bill in a manner that should not bear more severely on the illustrious personage accused than the safety of the state and the ends of substantial justice required. With respect to any question relative to a provision for the illustrious personage, their lordships must be aware that it could not originate in that House. The allegations of guilt were to be found in the preamble of the bill, and for the proof of those allegations he would propose that it should go to the second reading. He trusted their lordships would endeavour to discharge this duty, as they had discharged every other judicial duty in which they had been engaged, in such a fair and impartial manner as would entitle them to the respect and confidence of the country—that re-

spect and confidence which they had always deserved. As to the more immediate proceedings, he wished a copy of the bill to be forwarded in the most respectful manner to the illustrious individual concerned. The next question would be whether their lordships would fix a period for the second reading now, or postpone the determination on that point for two or three days, in order to learn what the wishes of the illustrious individual on the subject were. If he were called on to name a day, he would propose the second reading for that day fortnight, as a proper and reasonable time for a measure of this description; and during that period their lordships would have an opportunity of considering what their future course of proceeding should be. He trusted that the administration would be found to act on this occasion with the utmost calmness and deliberation. It was a most important question, and called for dispassionate inquiry. It would be his endeavour, and he was sure it would be the endeavour of all their lordships, to discharge their duty firmly, but with all due lenity and mildness towards the illustrious person whose conduct had been brought under consideration. It was most satisfactory to reflect that the country had no precedents of a case similar to the present, during a period of 200 years, except in the instance of one individual, who never came over to this country. There had not been a queen in this country during that time against whom even a whisper of shame had been raised to affect her character or sully her reputation. It was a matter of deep satisfaction to reflect, that for the last sixty years this country had derived the greatest benefits from the example of the illustrious individual who, during that long period, had shared the throne of England, and who had by that example contributed most essentially to the moral character and moral feeling of the country. The individual to whom he had before referred was unknown to this country as its queen; and he had hoped that their lordships and the country would in this, as in that instance, have been spared the shame and scandal that must arise from an investigation of this nature, whatever its result might be. He felt that he, in common with their lordships, was placed in a situation in which they had no alternative: the question now was, if those allegations were proved to be true, whether impunity should be extended to guilt, or justice should be suffered to triumph? Nothing now remained for their lordships to do, but to pursue a clear and straight-forward course—to perform their duty boldly—determined, whatever public clamours might exist, to take care that public justice was satisfied.

The Bill, of which the following is a Copy, was then read by the Clerk:

COPY OF THE BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.

"An Act to deprive her Majesty Queen Caroline Amelia Elizabeth, of the Title, Prerogatives, Rights, Privileges and Exemptions, of Queen-Consort of this Realm, and to dissolve the Marriage between his Majesty and the said Caroline Amelia Elizabeth.

"Whereas, in the year 1814, her majesty, Caroline Amelia Elizabeth, then Princess of Wales, and now Queen-Consort of this realm, being at Milan, in Italy, engaged in her service, in a menial situation, one Bartolomo Pergami, otherwise Bartolomo Bergami, a foreigner of low station, who had before served in a similar capacity:

"And whereas, after the said Bartolomo Pergami, otherwise Bartolomo Bergami, had so entered the service of her Royal Highness the said Princess of Wales, a most unbecoming and disgusting intimacy commenced between her Royal Highness and the said Bartolomo Pergami, otherwise Bartolomo Bergami:

"And whereas her Royal Highness not only advanced the said Bartolomo Pergami, otherwise Bartolomo Bergami, to a high situation in her Royal Highness's household, and received him into her service, and that in high and confidential situations about her Royal Highness's person, but bestowed upon him other great and extraordinary marks of favour and distinction, obtained for him Orders of Knighthood and Titles of Honour, and conferred upon him a pretended Order of Knighthood, which her Royal Highness had taken upon herself to institute without any just or lawful authority:

"And whereas her said Royal Highness, whilst the said Bartolomo Pergami, otherwise Bartolomo Bergami, was in her said service, farther unmindful of her exalted rank and station, and of her duty to your Majesty, and wholly regardless of her own honour and character, conducted herself towards the said Bartolomo Pergami, otherwise Bartolomo Bergami, and in other respects, both in public and private, in the various places and countries which her Royal Highness visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bartolomo Pergami, otherwise Bartolomo Bergami, which continued for a long period of time during her Royal Highness's residence abroad, by which conduct of her said Royal Highness, great scandal and dishonour have been brought upon your Majesty's family and this kingdom.

"Therefore, to manifest our deep sense of such scandalous, disgraceful and vicious conduct on the part of her said Majesty, by which she has violated the duty she owed to your Majesty, and has rendered herself unworthy of the exalted rank and station of Queen Consort of this Realm, and to evince our just regard for the dignity of the Crown and the honour of this nation, we, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons in parliament assembled, do hereby entreat your Majesty that it may be enacted;

"And be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present parliament assembled, and by the authority of the same, that her said Majesty Caroline Amelia Elizabeth, from and after the passing of this Act, shall be and is hereby deprived of the title of Queen, and of all the prerogatives, rights, privileges, and exemptions appertaining to her as Queen Consort of this Realm; and that her said Majesty shall, from and after the passing of this Act, for ever be disabled and rendered incapable of using, exercising, and enjoying the same, or any of them; and moreover, that the marriage between his Majesty and the said Caroline Amelia Elizabeth be, and the same is hereby from henceforth for ever wholly dissolved, annulled, and made void to all intents, constructions, and purposes whatsoever."

After the bill had been read a first time the Earl of Liverpool moved, that copies should be sent to her majesty, and her majesty's attorney general, and also to the king's attorney-general, which was agreed to.

Earl *Grey* observed, that the more he considered the objections against the mode in which they were proceeding, the more he was confirmed in those objections. The bill, he thought, instead of stating generally the criminality imputed to her majesty, should specify the particulars of time and place, in order that she might be enabled to meet the allegations. The preamble, however, did no such thing, and therefore was wanting in that certainty of description which her defence required to be stated. He therefore wished to know, whether the noble earl intended to adopt any other mode of proceeding subsequently, with a view to supply that defect. He wished also to ask, whether any course was in contemplation for supplying her majesty with the names of the witnesses about to be produced against her?

The Earl of *Liverpool* said, that the second reading of the bill would be the proper time to enter into the discussion. He had no difficulty however in stating, that the specification in the preamble was as particular as any other to which they could refer, and was in all respects sufficient to guide her majesty's defence. With regard to the names of the witnesses, it was unprecedented in the history of parliamentary proceedings to furnish them, while a bill of Pains and Penalties was depending. It was unusual in all proceedings, except in trials for high treason; but as her majesty had claims to the utmost indulgence, sufficient time would be allowed her to select her evidence, and this would do away the only plausible ground that existed for demanding a list of the witnesses.

Lord *Dacre* moved, that her majesty's counsel should now be called to the bar, in order to state points which were neces-

sary to her defence. He did this upon information which he had received recently.

The Earl of *Liverpool* suggested that the noble lord might obtain his object, without resorting to a course which was contrary to the whole analogy of their proceedings, and promised that if a petition was presented to-morrow, the bill being in progress he would not then object to it.

Lord *Dacre* assented, and did not press the motion.

Earl *Grey* thought, that whatever course was taken under the present proceeding, it must be attended with great disadvantage to her majesty. The commencement of a prosecution, grounded upon evidence which could not be met for a considerable time after the evidence had produced its impression, was unfavourable to the end of justice. It would be more conducive to that end if the whole could be postponed until there was an opportunity for proceeding with the accusation and defence together. In all Divorce bills the accused party had the advantage of the knowledge to be derived from previous proceedings. The noble earl had alluded to the management of the case at the bar; but he wished to know by what authority, or at whose direction, any person could appear at that bar to conduct the prosecution?

The Earl of *Liverpool* said, that the attorney-general might be called upon by the authority of the House either to appear himself, or to provide some person to conduct it.

Earl *Grey* observed, that from the noble lord's statement it would appear as if the House itself had assumed the character of a prosecutor in a case which it was about to try.

The Earl of *Liverpool* stated, that the House had actually appointed counsel in other cases, and there could be no doubt that they would see justice done between the parties.

Earl *Grey* said, he was aware that the House had appointed counsel in other cases, in that for instance of the Berkeley case, but here was a case of prosecution for which he had not heard any precedent. He was as far as the noble lord from suspecting the justice of the House; but, it was not only necessary that they should be just, but that they should appear above suspicion.

The *Lord Chancellor* defended the proceeding by a bill of Pains and Penalties originating in that House, and justified the interposition of a secret committee. The attorney-general was one of the legal assistants of that House, in which capacity he was liable to be called on to conduct the proceeding.

Lord *Holland* remarked, that the attorney-general was a member of another House, and might therefore be objected to as the manager of a prosecution in the House of Lords, upon which he would have to pronounce hereafter in the House of Commons.

The Earl of *Liverpool* said, that though the order was given to the attorney-general, he would not be obliged to appear personally, but might send some other person, as had occurred in many cases.

HOUSE OF COMMONS.

Wednesday, July 5.

PETITION FROM NORWICH FOR TWO GENERAL GAOL DELIVERIES.] Sir *James Mackintosh* presented a petition from Robert Hawkes and Edward Taylor, sheriffs of Norwich, complaining that the assizes for the city were only held once a-year. The grievance of which the petitioners complained was a very serious one. The House was aware that, under the present regulations, the assizes for Norwich were only held once a-year, and that the spring assizes for the county did not extend to the city. The city of Norwich had, therefore, the same grievance to complain of as the four northern counties, which had already been under the consideration of the House. The spring assizes for the county of Norfolk were held at Thetford, and the summer assizes in the city of Norwich. One individual, committed on the 11th Sept. 1819, was confined ten months in prison previous to trial; two were committed on the 30th Sept. 1819; one on the 6th Oct. 1819; two on the 15th Jan., and one on the 3rd Feb. 1820. The petitioners expressed their hope that the House would take the subject into their serious consideration, in order that they might enjoy the same right possessed by nearly the whole of the counties of England. The hon. member trusted that the wisdom of parliament would devise some means of redressing this great grievance.

Mr. *Harbord* thought that the grievance complained of could not be expressed in too strong language, and objected parti-

cularly to the unhealthiness of the cells in which the prisoners were confined. Several of these cells were three feet below the surface of the ground, and the only day-room for the accommodation of the prisoners was eight feet below the ground, and consequently very damp and unwholesome. At the time he examined the prison, there were then ten untried prisoners, of whom the eldest was 18, and they were only divided from the convicts by an open railing. There were four cardinal points which were peculiarly deserving of attention on this subject—classification, inspection, constant employment, and moral and religious instruction. Three of these were wholly neglected in the gaol in which these prisoners were confined.

Mr. *Colborne* did not deny the existence of the grievance complained of, but thought it might be easily remedied. The Norwich sessions might be empowered to try those prisoners who had been confined for any length of time; or the prisoners might be removed to the town of Thetford, there to undergo their trial. He saw no reason why a short bill should not be introduced to this effect.

Sir *J. Mackintosh* objected to the two remedies proposed by the hon. member: to the first, because he thought it would be an act of injustice; and to the second, because an unnecessary expense would be incurred.

Ordered to lie on the table.

STEAM ENGINES COMMITTEE.] Mr. *M. A. Taylor* brought up the report of the committee appointed to inquire into the possibility of Steam Engines consuming their own smoke. He said that the object of the inquiry had been completely answered, and he trusted that, ere long, the metropolis would be freed from the nuisance to which it had been long subject. He intended in the next session to introduce a bill, to declare the law upon the subject, and to prevent those nuisances from being longer continued.

PETITION OF HUGH CAMPBELL RESPECTING CELTIC LITERATURE.] Sir *J. Mackintosh* said, he held in his hand a petition of rather a singular nature. It was one from Mr. Hugh Campbell, a student at law, complaining of the conduct of the Highland Society of London. The petitioner, it appeared, had been inspired by a laudable zeal for the literature of his country, and had undertaken tours through the Hebrides, and the province of Ulster, for the purpose of illustrating the topography of the poems of Ossian, and particularly that of Fingal. It might be worthy of remark, that in the college of Madrid were to be seen large and accurate maps of the tour of Don Quixote through the various provinces of Spain, and the petitioner seemed to be actuated by a wish to perform some such task with respect to the poems of Ossian. In the petition he had asserted that the Highland Society was bound to remunerate him for his labour, and he complained that that society had refused him compensation. The hon. member was not aware in what manner relief could be afforded to the petitioner; but he felt it his duty to lay the petition before the House.

Ordered to lie on the table.

SCOTS MALT DUTY.] Lord *A. Hamilton* having risen to make his motion respecting the Tax on Malt in Scotland,

The *Chancellor of the Exchequer* said, he should inform the noble lord what he intended to do, that the noble lord might know how far his motion was rendered unnecessary. He should propose a temporary allowance of 6*d*. per bushel on malt made from big or beer, under certain regulations

Lord *A. Hamilton* said, that this concession was so inferior to what the people of Scotland considered as due to them, that he should persist in his motion. The grounds on which he objected to the tax lately imposed on Scots malt were three. 1, That it had been the practice for more than a century to impose on Scots malt only half the duty that was imposed on malt in England; 2, that a less tax had been generally imposed on beer or big than on barley malt; and 3, that the tax was passed at an improper time and in an unfair manner—in the last week of the last session, when scarcely any Scots members were present, or knew of the bill. The effect of the increased duty had been such in Scotland, that the distilleries could no longer work except at a loss. The fact was, very few of the great distilleries had worked during the last twelve months, and those only were satisfied with the duty as it at present stood who found means of defrauding the revenue. It seemed probable, indeed, that this increase of duty on Scots malt had originated in some mistake, for a letter

written in October from the Treasury, in answer to an application from Scotland, the 23rd of August last, stated that the increase of duty on Scots malt was 1*s.* 2*d.* per bushel, whereas it turned out to be 1*s.* 9½*d.* Petitions had poured in against this tax from every part of Scotland. Upon the cultivators of inferior soils, where the inferior descriptions of barley were grown, it was most oppressive. The small stills, which had been encouraged by government for the counteraction of illicit distillation, were now obliged to cease working, and to give way to unlawful competition. The noble lord having urged his arguments against the tax, under the several heads mentioned, said, he should propose certain resolutions. The resolutions stated, that in the malt duty acts of 1725, 1760, 1779, 1780 and 1787, the principle had been recognized, that the rate of duty on malt in Scotland should be one half of the rate of duty on malt in England; that by those and various other acts, smaller duties had been imposed on beer or big, than on barley malt; that by the act of the last session, the duty on malt had been increased 16 per cent in Scotland and diminished 23 per cent in England. The resolution with which he intended to conclude the series was to this effect—that the departure from the principle previously acted upon in the imposition of the duties on malt had been injurious to the agriculture and general interests of Scotland. The noble lord moved his first resolution.

The *Chancellor of the Exchequer* said the practice with respect to the imposition of the duty on malt had not been entirely uniform; for in 1713, six years after the Union, 6*d.* per bushel duty was imposed on Scots and English malt equally, though 12 years after it was reduced in the case of Scotland. There was obviously great inconvenience in the existence of unequal taxation in different parts of the island. It was to be observed that in 1802, a tax of 1*s.* 0¼*d.* per bushel, and in the next year 2*s.* more per bushel had been imposed on malt in Scotland as well as England; a tax not much less than that which existed at present. Though on the whole the English might be somewhat superior to the Scots barley, yet much of the barley of Scotland was quite equal to that of England; and in many of the counties of England, especially the northern counties, the English barley was inferior to the average of Scotland. He allowed that in the case of beer or big there was a claim for a reduction of the duty, and he proposed to grant a temporary allowance of sixpence per bushel. If the duty in Scotland were less than that in England, it would be necessary to prohibit the intercourse in grain between the two countries, because 250,000 quarters of barley had been imported into Leith from England, and would probably be sent back in the shape of malt or strong ales. He should, therefore, persevere in the principle which parliament had adopted, and would move the previous question.

Mr. *Fergusson* could not agree that there should be no deviation from the old proportion of the duties in the two countries, though he wished the duty to be somewhat lower in Scotland than in England.

Lord *A. Hamilton* said, that the only point on which he meant to divide the House was this, that the existing duties were too heavy.

Sir *J. Marjoribanks* complained that the act imposing an additional duty on malt made in Scotland, was passed at a late period of the last session quite unexpectedly, when a great part of the Scotch members had left town. He professed his determination to vote for the resolution.

Mr. *Kennedy* said, that if the agriculture of Scotland had improved, it was owing to a very spirited expenditure of capital in that country, and not to any cause connected with the taxes. Formerly, much encouragement was given to the establishment of small legal distilleries. The act for that purpose passed parliament four or five years ago, and produced the most beneficial effects. But since the act of July last, that encouragement was entirely taken away, and the consequence was that the revenue was very much diminished by the number of smugglers. He put it to the right hon. gentleman, whether it would not be for the benefit of the country, even with a view to revenue, to allow the occupiers of land to distil the corn grown within their own lands.

Mr. *Boswell* said, that from the variableness of the climate in Scotland, it frequently happened that a great part of the corn was damaged before it could be got in, and was rendered unfit for consumption in any way except in the way of distillation. But when the duty on all kinds of grain was the same, it acted to

the exclusion of that damaged grain from the distilleries. He did not ask that the duties should be reduced to one half; but he thought it extremely necessary to diminish them to some extent.

On the first and second resolution, the previous question was carried without a division; but on the third resolution the House divided, Ayes, 43; Noes, 53.

GRANTHAM ELECTION.] On the motion of Mr. Wynn, the short-hand writer on the Grantham election committee was called to the bar, and read the minutes of the evidence he had taken this day relative to the service upon sir W. Manners of the warrant of the Speaker requiring his attendance. A witness had deposed, that he had repeatedly endeavoured to serve the warrant upon sir W. Manners, but in vain, and at last had been obliged to throw it over the gate of his residence, near Grantham.—Sir R. Heron moved that sir W. Manners be taken into the custody of the serjeant at arms.—Mr. Tennyson moved as an amendment, that sir W. Manners be ordered to attend the House on Monday.—Dr. Phillimore thought it impossible for any person who had attended to the evidence to doubt that there had been an intention to evade the orders of the House, or that the witnesses had kept purposely away. Mr. Wynn was also of opinion, that due notice had been served upon the witnesses, and that the House was bound to vindicate its authority. The original motion was agreed to.—Sir R. Heron then moved that R. A. Jarvis be also taken into the custody of the serjeant at arms.—Sir J. Mackintosh said that the present was a most flagrant contempt of the authority of the House, and he should support the motion, in order to teach all parties, either directly or indirectly concerned, that the commands of no person were a sufficient excuse for such a defiance of their orders.—The motion was agreed to; and Hugh Manners and W. Atter were also ordered to attend.

IRISH TITHES BILL.] Sir *H. Parnell* rose, to call the attention of the House to a subject which materially concerned the agriculturists of Ireland; namely, the present system of collecting the tithes. As an instance of the practical inconvenience and injustice of the present system, he held in his hand a receipt for 3*l.* 8*s.* paid by a small farmer in Ireland to a tithe proctor, who, instead of summoning the farmer before a magistrate for a sum of 18*s.* 10*d.* which was due, issued a subpœna from the Court of Exchequer, on the 19th of May, calling upon the farmer, who lived at a distance of fifty miles from Dublin, to appear in the Court of Exchequer, on the 2nd of June following, thereby incurring an expense of 2*l.* 10*s.* for the recovery of a debt of 18*s.* 10*d.* The present was a system of oppression on the poor tenantry, as would appear from the returns on the table, in which it was stated, that in five counties there were no less than 1,400 tithe actions at one quarter sessions, besides exchequer subpœnas. He only wished that the law which passed the House in 1817, should be extended to Ireland. The measure which he had now the honour of submitting to the House had the approbation, not only of the parochial clergy, but of many of the Irish bishops, as it was intended at once to relieve the poor from the oppression of proctors and tithe farmers, and to secure the interests of the clergy. He should now move for leave to bring in a bill to enable the clergy to grant leases of tithes under certain regulations. He would wish the bill to be printed, and left in the hands of members until next session.

Sir *J. Newport* agreed that this would be a conciliatory measure, and tend to allay much of the discontent which existed in consequence of the system adopted in the collection of tythes. It would do away with much of the jealousy which existed towards the clergy of the established church, and would set at rest that which was growing up of late in Ireland; namely, the setting up claims to make articles titheable which had not been hitherto so. This measure had the approbation of the clergy.

Lord *Castlereagh* had no objection to the bill being brought in and printed, but he wished it to be fully understood, that it was not a bill interfering with the general commutation of tithes, but a counterpart of a bill which passed the House in 1817, but which was thrown out in another House.

Mr. *M. Fitzgerald* bore testimony to the oppression practised by tithe proctors in Ireland, and to the general approbation of the clergy of the measure proposed.

Mr. *Lockhart* explained the object of the bill which he had supported in 1817,

and said, if the present conformed in its provisions to that bill, he would support it.

Mr. *C. Grant* said, in the present stage of the proceeding he should certainly not oppose it. He should, however, reserve to himself the privilege of examining its provisions carefully in a more advanced stage.

Mr. *Newman* observed, that the bill of 1817 seemed not to be looked on by the church, generally speaking, with alarm, as might be proved from its not having been opposed by the bishops. It was solely rejected on the ground of its being brought forward so late in the session.

Leave was given to bring in the bill.

THE LATE KING'S OFFICERS AND SERVANTS.] The House having resolved itself into a committee of Supply,

Lord *Castlereagh* stated, that when he yesterday submitted to the House a resolution founded upon the king's message, relative to a provision being made by parliament for the other branches of the royal family, he had stated the general nature of the resolutions which he should this evening have the honour to propose to their notice. This would render it unnecessary for him to do any thing more than repeat the general principles upon which it was founded. The House were already aware that upon the demise of the queen a reduction of nearly 180,000*l.* immediately took place in the annual expenditure of the country; but that the saving really gained to the public did not amount to more than 160,000*l.*, owing to the House thinking it proper that a provision, amounting to 18,000*l.* ought to be made for the menial servants who had been in the employment of her majesty. The saving of this sum was certainly of great advantage to the country; but as a set-off against it he must now propose that 24,000*l.* be granted to his majesty to enable him to provide for the servants of his late father. The House might, perhaps, be aware, that there was no precedent to sanction such a grant to the servants of a deceased king, though such a provision had been made for the servants of a deceased queen, after the demise of queen Mary, queen Anne, queen Caroline, and the dowager princess of Wales. To the servants of queen Mary a grant of 24,000*l.* had been made; but the provisions for the servants of her late majesty had been made upon a much more narrow and confined scale, no pensions being asked for her state officers, but only for her menial servants, though in former cases it had always been usual to grant them for life to both descriptions of persons. The House would also perceive that one reason why grants of this nature had never been made on any previous occasion to the servants of a deceased king was, that his successor, having his establishment to form, had it in his power to retain in his service those who had been in the service of his predecessor, and that in consequence of that circumstance it was not requisite to call upon parliament to make any provision for them. At present, however, the case was otherwise. His present majesty had had, for many years before he acceded to the throne, a regular establishment, which rendered it impossible for him to continue in his service those who had been in the service of his father, unless indeed he discarded some of those who had served him faithfully; and therefore it became necessary for the ministers of the Crown to apply to the liberality of parliament. This they now did, not in behalf of his late majesty's state officers, but in behalf of those who had attended him in a menial capacity. Of these there were four classes. The the first of these, which consisted of servants who were actually in the king's service at the time of his death, and had been so for many years previously, he should propose that a grant of 9,519*l.* should be made. To the second of them, which consisted of servants on the Windsor establishment, discontinued, on the reduction of that establishment some few years ago, he should propose that a sum not exceeding 4,100*l.* should be granted. The individuals who composed this class had, in consequence of the reduction to which he had just alluded, been provided for out of the privy purse of his late majesty; but gentlemen would recollect, that the salaries which were received out of it would naturally be discontinued as soon as that privy purse ceased to exist. To the third of them, which consisted of persons who had received pensions from his majesty's privy purse, he should propose that 10,500*l.* should be granted. He could assure the House, that of this sum 8,000*l.* had been granted by his late majesty out of his privy purse previously to his lamented illness; and the persons who shared it among them might therefore be supposed to have

claims upon his favour and bounty, either as old and valued servants, as men of letters, or for various other causes which it was not necessary for him then to enumerate. All such salaries, allowances, and pensions, had not been brought before the notice of parliament, as it was clear that some of them had only been granted during his majesty's life, and therefore must naturally cease with it. It was only intended to continue these allowances to those who appeared to have the best claim to them. The fourth class consisted of persons who had only been a short time in his late majesty's service, and to whom it was proposed that one year's salary should be continued upon the discontinuance of their employment. For these he should demand a grant of 403*l.* The whole sum which he called upon parliament to grant was 24,000*l.* The House ought to avail themselves of every opportunity which occurred of showing their reverence for his late majesty, and he thought that they could not have a more favourable opportunity than the present for doing so. He therefore trusted that the House would evince their liberality by supporting the grant which ministers felt it their duty to propose to its consideration, in order to provide for the late servants of his majesty.

Mr. *Bankes* observed, that if the House consented to grant these sums in their present shape, they would establish a precedent which would lead them an indefinite length in the way of example on every demise of the Crown. Though unwilling to object to the whole of the resolutions, he could not bring himself to vote for them as they stood at present, for many reasons:—first of all, because he found that a proper scale of compensation had not been adopted in the provision proposed, a person of 35 years of age being often placed in the same situation as a person of 65 years, who had spent half his life in his majesty's service: secondly, because many of the individuals to whom he alluded were not retiring on half pay, but were receiving their full salaries and allowances when they were performing no services, and were thus adding an additional and unexpected burden to those which already pressed upon the country: thirdly, because they were able to discharge other offices, and thus might be provided for in another manner. Indeed, he could not help observing that until the present time no one had ever heard of these charges on the privy purse. Why, then, might they not be continued on it, or why might they not be transferred to the pension-list? Besides, there were large savings out of the privy purse of his late majesty, and those savings were, he understood, in the absolute disposal of the Crown; why, then, might not the grants which parliament was called upon to supply be furnished out of those savings? If it should be deemed inexpedient to supply them in that manner, and if parliament should decide that they should come from the pockets of the public, he trusted that ministers would, as the lives on the pension lists of England, Scotland, and Ireland respectively fell in, place the individuals for whom it was now proposed to provide by those grants upon them, and would not, by rendering these grants annual, create as it were a fourth pension-list. He thought these resolutions ought to be postponed, in order to their being further considered; and he would therefore advise his noble friend either to refer them to a committee, or else to reconsider them with his colleagues. He had no wish to press economy to an extreme; but extravagance, in the present state of the country, ought by no means to be tolerated, especially as one act of extravagance was now-a-days generally made a precedent for another.

Mr. *Hume* said, the noble lord had stated that there was no precedent for continuing the salaries and pensions to the servants of the king after the death of their illustrious master; and yet he had called upon the House to imitate the precedent of 1819, which he had defended by three others, and from which it appeared that it was usual to continue such salaries to the servants of a deceased queen. He also called upon the House to imitate it: for they would recollect that a committee had then sat and had recommended the scale of pensions which the House had afterwards adopted. If the noble lord would look to one of the documents then presented to the House, he would see that the committee had stated, that there were two classes of servants to be rewarded. In the first class no individual was admitted who had not been in the service of her majesty for 8 years at least. The salaries of the servants in this class amounted to 5,721*l.*, and the pensions granted to them to 4,100*l.*; so that there was a difference of full 20 per cent between the salaries enjoyed and the pensions granted. The first case upon which he cast his eye was

one in which the person enjoyed a salary of 183*l.*, and had only a pension of 164*l.*: the next was one in which the salary was 377*l.*, the pension only 300*l.* But, in the present case, the noble lord proposed pensions equal to the whole salaries, though the committee had recommended that not more than one-fourth of the nett salary, discarding all allowances, should be paid to any servant in the way of pension. If the noble lord thought the precedent of 1819 so worthy of imitation, why did he not recommend the same scale of reduction as was then adopted, and continue consistent to his own precedents? The committee of that day had recommended that only 4-5ths of their salary should be granted as pensions to those who had been in her late majesty's service for a less period than eight years; but in looking into the present estimates, he saw that one individual who had only been two years in his majesty's service, and who was only 22 years of age, and another who had been only one year in his service, and was 28 years of age, were presented with their whole wages, 16 guineas, as a pension for life. Now he would ask the House, if an individual who had been only two years in his majesty's service, and was only 22 years of age, was entitled to the whole of his wages as a pension for life, what ought an individual belonging to the first class of persons mentioned by the noble lord, as between 60 and 70 years of age, to receive as a reward for his services? The present was a question of great importance, and he could wish it to be postponed to a future day. If ministers should persevere in pressing this vote through the House, he should certainly feel it to be his duty to move, that the pensions should be reduced upon the same scale as was applied in 1819, and that the persons who enjoyed them should be placed upon one of the pension-lists, as regularly as the lives of those now upon it fell in.

Mr. *W. Smith* was extremely happy to hear that it was not the intention of ministers to grant any pensions to the great officers of state, as he had long thought that the great chamberlains, &c. about the court might be well content with the dignity which they enjoyed, without debasing it by receiving a salary. Among the names of those who had received pensions out of the privy purse, he found those of Sir W. Herschel and Miss Herschel, for 400*l.* There was not a man in the House who did not think that that pension had been most worthily earned—that it did the highest honour both to the head and heart of his late majesty, and that it ought, on every consideration, to be continued. But was it right that the claim of Sir W. Herschel, a gentleman 85 years of age, to the bounty of the nation, should be placed on a level with those of sundry musicians, only 45 years of age—respectable men in their situation in life he had little doubt—who were to be presented, according to the estimates, with 130*l.* a year for life? There was one circumstance which he could not refrain from bringing before the House. He had been told, that West, who was equally illustrious in his department of science as Herschel was in that over which he presided, had been presented with a pension by his majesty, and that that pension, on the demise of his majesty, had been stopped immediately, and without any notice. If the rumour was not true, he should like to hear it contradicted, because as West before his death was in want of assistance, it ought not to have been denied him. He thought that there was great weight in what had fallen from the hon. member for Corfe-Castle, about applying the savings of the privy purse to a provision for the servants of his late majesty. He could not agree to the resolution now proposed, as it was inconsistent with precedent, and economy.

The *Chancellor of the Exchequer* observed, that, with a limited pension-list, however much it was to be regretted, it was still evident that circumstances would arise which rendered an application to the liberality of parliament absolutely necessary. He thought the circumstances of the present case fully justified him in appealing to it, notwithstanding the objection by which he had been met, that if this precedent were established, others would be defended upon it. He could not see into futurity; but as the present circumstances were so very extraordinary, he thought it would be still more extraordinary if similar circumstances should again occur. In proposing the present pensions, they had by no means continued the late salaries, because the persons who held them had along with them board wages, and many other emoluments. The pages of the back stairs were particularly entitled to the pensions which it was proposed to grant, as they had been employed about the person of his late majesty till his demise, and, to their honour be it spoken, no anecdotes derogatory to his dignity or

painful to public feeling had escaped to the public. With regard to the late Mr. West, he was not a pensioner on the Crown, but a repairer of his majesty's pictures under the lord chamberlain, and received his salary from the lord chamberlain's office.

Mr. *Williams* enforced Mr. Hume's view of the proposed grants, thinking that according to the precedent referred to by the noble lord, they ought to be reduced at least one-fifth.

Mr. *Huskisson* stated, that according to the recommendation of a committee upon the subject, there was a compensation granted to the queen's servants in lieu of perquisites, in addition to the vote alluded to by the hon member for Aberdeen, and therefore that hon. member's comparison was erroneous. With regard to Mr. West, he was enabled to say not only that the allowance from the lord chamberlain's department was continued to that illustrious artist to the end of his life, but to add, that Mr. West received 1,000*l.* a year from the privy purse of his majesty, with a view to encourage the arts, and that the whole of the sum thus granted by his majesty, whose patronage of the arts was proverbial, amounted to no less than 40,000*l.*

The several resolutions were agreed to.

THE QUEEN.] Lord *Castlereagh* moved for the appointment of a committee to examine the Journals of the House of Lords, in order to ascertain whether any and what proceedings had taken place in that House with respect to her majesty, and to report their opinion thereupon to the House.—The motion was agreed to.—The noble lord then said, that he had submitted this motion with the view which it implied; and if from the report of the committee, it should appear that the other House had instituted any proceeding, he should then consider whether, pending that proceeding, the notice of a motion which he had given for to-morrow should not be dropped; and also whether he should not to-morrow move the reading of the order for taking his majesty's message into consideration on Friday, with a view of moving the postponement of that order until some future day. This postponement he should feel to be proper, in order that the House might wait the result of the proceedings in the House of lords, still reserving to itself the right of taking his majesty's message into consideration.

Sir *J. Newport* asked, whether it was the intention of the noble lord to keep the order which was fixed for Friday in abeyance, until the lords should pronounce their decision upon the subject? If such were the noble lord's intention, it would be a very uncommon course of proceeding.

Lord *Castlereagh* observed, that the proceeding instituted by the lords might never be brought in any legislative way before that House, and, therefore, he proposed only that the order for considering his majesty's message should be delayed, but that the House should by no means abandon its right of inquiry upon the subject.

Sir *M. W. Ridley* hoped the House would not agree to the course proposed by the noble lord. If no other member would take the sense of the House upon the subject, he should feel it his duty to do so.

HOUSE OF LORDS.

Thursday, July 6.

PETITION FROM HER MAJESTY TO BE HEARD BY HER COUNSEL.] Lord Dacre presented the following petition from her Majesty:—

"CAROLINE REGINA:

"The Queen has heard, with inexpressible astonishment, that a bill, conveying charges, and intended to degrade her and to dissolve her marriage with the King, has been brought by the first minister of the King into the House of Lords, where her Majesty has no counsel or other officer to assert her rights. The only alleged foundation for the bill is the report of a secret committee, proceeding solely on papers submitted to them, and before whom no single witness was examined. The Queen has been further informed, that her counsel last night were refused a hearing at the bar of the House of Lords, at that stage of the proceeding when it was most material that they should be heard, and that a list of the witnesses, whose names are known to her accusers, is to be refused to her. Under such circumstances, the Queen doubts, whether any other course is left to her, but to protest in the most solemn manner against the whole of the proceeding; but she is anxious to make one more effort to obtain justice, and therefore desires that her counsel may be admitted to state her claims at the bar of the House of Lords."

Lord Dacre moved, that the counsel be called in.

The *Lord Chancellor* observed, that it was a matter of infinite importance that the practice of their lordships' House should be regulated by strict and invariable principles. The petition did not explain on what points her majesty wished to be heard by counsel. The ordinary course was, for counsel to be heard upon the second reading of a bill, and when the evidence to be brought forward was explained; but he believed this was the first time that ever it was proposed that counsel should address their lordships upon circumstances not specified, and when there was no evidence before them. If counsel were to be heard, he thought that they must be required to explain what were the points to which their address was intended to apply. If they were not so limited, their address might apply to matters of fact which could have no concern with the defence. The question was not, therefore, whether counsel should be called in, but whether they should not be confined by an instruction of the House if they were called in.

The Earl of *Liverpool* said, the proper course would be, either immediately to agree to instruct the counsel, or otherwise to order them to be called in, and asked on what points they meant to address the House. If they meant to argue that the preamble of the bill was not sufficiently detailed, that would be an intelligible ground; if they meant to contend that a list of witnesses ought to be furnished to her majesty, that would be an intelligible ground; if they meant to propose to expedite the proceedings, or to delay them, all these would be intelligible grounds: but he could not consent to their being called in without some limitation. The hearing counsel at all at the present stage was quite unprecedented. If therefore their lordships, under the peculiar circumstances of the case, agreed to hear them, it must be after calling on them to fix precisely the points on which they were to address the House. As the noble baron had moved that they be called, he should therefore move that they be asked what points they meant to urge.

The motion was agreed to, and the counsel were called to the bar.

The *Lord Chancellor* then stated, that he was desired by the House to ask upon what points the counsel intended to address their lordships, and, after they had answered, then to direct them to withdraw.

Mr. *Brougham* observed, that he was commanded by her majesty to appear at their lordships bar, in consequence of the proceeding instituted against her, and that he had several points to urge in behalf of his royal client. Her majesty had last night been served by the gentleman usher of the black rod with a copy of a bill, presented to their lordships, which contained charges of the gravest nature, and her majesty could not suffer the shortest interval to elapse without stating her objections to the whole proceeding thus instituted by bill. Their lordships, he hoped, would also suffer him to add his regret that the request made by her majesty yesterday to be heard against this proceeding was not complied with. It was also the wish of her majesty's counsel to object to the course of proceeding on account of the relative situation in which their lordships and her majesty stood with respect to proceedings which it might still be necessary to adopt. They were also directed to address some observations to their lordships, touching the mode of proceeding, and to the time; touching any delay, also, which might be proposed, as to whether that delay should take place at the present, or be interposed in some subsequent period of the proceeding. It was also their wish to declare certain matters on the part of her majesty, which they thought calculated to have an important effect on the proceedings before their lordships; and he had to add, that the present was the stage of the proceedings in which it was proper for them to state to their lordships those matters to which he had thus generally adverted. They begged further to observe, that it was matter of very serious detriment to her majesty that their lordships should have rejected the prayer of her petition of yesterday, and refused to hear her counsel before the bill to which her petition of this day referred had been brought in and read a first time. This appeared to her majesty the more extraordinary when the ground of that refusal was considered. It was said that a report on which a bill was to be founded, had been made in a certain place; but that of the existence of any such proceeding her majesty could have no knowledge. Her majesty and her counsel were held to be quite ignorant of this proceeding, though every body in the metropolis but themselves

was well acquainted with it. In fact, the report was by this time in the possession of every man, woman, and child, within the range of the circulation of the newspapers. It was stated by these newspapers, that their lordships had ordered the report to be printed, and every one of them had published copies of it. These statements might, perhaps, be fabrications —they were perhaps gross libels on the secret committee which their lordships had appointed, and on their lordships House: but as they were given in a very consistent form, and as those who had dared to circulate assertions apparently so calumnious had not been judicially visited for their presumption, her majesty's counsel began to be afraid that there was some foundation for them, and that the report, of which they and her majesty could know nothing, might in fact be in existence. But that report, if it did exist, went farther than the bill, with a copy of which they had been furnished. There was matter in the report which had not found its way into the bill; and that was a point upon which her majesty's counsel were also most desirous of being heard.

The counsel was ordered to withdraw.

The *Lord Chancellor* thought it quite impossible for their lordships to permit counsel to address them in the way proposed. It was his most anxious desire that strict justice should be done, in this as in every other case; but if certain matters were to be stated at the bar, to show why this proceeding could not be adopted, they must either be matters of fact or matters of law; if matters of fact, as the circumstances of the evidence were not yet known, they might be irrelevant; and if they were points of law, they might have nothing to do with the defence which was to be made against the bill.

Earl *Grey* was sensible of the necessity of adhering to precedent and analogy in their lordships proceedings, but it ought to be recollected, that this was a case for which there was no precedent, and he hoped that it would never form a precedent for any future one. If they were to be guided by precedent, it was impossible for them to find any. Their lordships object ought to be to do substantial justice. The learned lord proposed, in the first place, to limit the hearing of the counsel to the mode of proceeding on the bill; but it should be recollected that the petition objected to proceeding by bill at all. He understood the counsel to state that he had several facts and circumstances to urge; but he did not state whether those facts and circumstances related to the defence, or to the manner in which their lordships were proceeding. He wished their lordships seriously to consider whether they would not be acting too hastily, if they, from a mere regard to form, excluded the counsel from stating any facts which might be of importance to the case of his client.

The Earl of *Liverpool* did not understand what possible limit there could be to the statement of counsel, if they were allowed to proceed in the way they proposed. To allow them to speak on matters not connected with the defence would be to allow them to speak on every possible subject. He thought the course proposed by his learned friend afforded as great a latitude as could be allowed.

The *Lord Chancellor* observed, that after a bill of this description was read a first time, the nature of the evidence on which it was founded must be explained before any noble lord could propose its second reading. Every person who was interested in opposing it would then be entitled to be heard against it; but if counsel were allowed to be heard now in the way proposed, such a proceeding would be neither more nor less than a surrender of all their lordships functions. He therefore put the motion, that the counsel be called in, and instructed to confine their argument to the mode of the proceeding on the bill, and to the time of such proceeding.

The Marquis of *Lansdown* observed, that the real question was, not whether their lordships should hear counsel on the mode of proceeding with regard to the bill, but whether they would hear arguments to induce them to abandon the bill altogether, in order to adopt some other course.

Earl *Grosvenor* regretted that counsel had not been heard before the bill was introduced. That certainly was the time at which their lordships ought to have taken the objection into consideration. He, however, thought that the hearing should now be granted.

The Earl of *Lauderdale* could not conceive how their lordships could be asked to hear counsel against the proceeding by bill at this period. When they came to the second reading, counsel might very properly be heard on that point; and if it

could then be shown that they ought to abandon that course—that the measure ought not to be a legislative one—the bill would be given up. In the mean time it appeared to him that it would be most improper to hear counsel.

The *Lord Chancellor*, as a peer of parliament, gave it as his opinion that counsel could be heard on nothing but the mode of proceeding to be had on the bill, and the time at which the proceedings should take place. When, however, he stated that their lordships ought so to confine the counsel, it was to be understood that he meant the limitation to be without prejudice to any argument which might be urged against the course adopted by bill. Surely, according to every parliamentary principle, their lordships must reject any attempt to tell them what they ought to do in this stage.

Lord *Holland* reminded their lordships, that the great point on which her majesty's counsel desired to be heard, was to show that the proceeding by bill was a hardship to his client. If he understood what was likely to be done in the progress of the bill, all the witnesses for the prosecution would be heard at a stage long before any defence could be made. If this was so, the question of proceeding by bill had best be discussed now, because, if there were any hardship in the case, that hardship would occur before the counsel could have an opportunity of stating any thing against it.

Earl *Grey* again insisted on the propriety of hearing counsel now against going on with the bill. When they came to the second reading, if it should be shown that the course adopted was wrong, time and labour would be lost, as well as evil done. If counsel were to be heard against the bill at all, this was, on every principle of justice and propriety, the proper time for hearing them. Undoubtedly their lordships could not suffer counsel to obtrude themselves, and to dictate the course of proceedings to be adopted by the House; but that did not prevent their lordships from seriously weighing the reasons which might now be offered against the bill.

The *Lord Chancellor* repeated the reasons on which he thought the counsel ought not to be heard. Were he in a situation to consult his feelings as a man, he would not object to the application which had been made; but, in his situation as a peer of the realm he was bound to resist it. His lordship then put the question on the motion for limiting the counsel, which was carried.

The counsel being then called in, the Lord Chancellor stated, that he was commanded to inform them, that in what they should represent to the House they were to confine themselves to the mode and manner of proceeding to be had on the bill; and to the time when those proceedings should take place.

Mr. *Brougham*, her Majesty's Attorney General, then proceeded to address their lordships to the following effect:—His learned friend and himself were totally ignorant of what had occurred in their absence, and therefore their lordships would naturally suppose that they were at a loss to comprehend the exact points to which as they had been told, their argument was to be limited, and the manner in which they were to be tied down in entering upon the important task which they were then called upon to perform. In making the effort which he was then making, with all good faith to comprehend the command which their lordships had just imposed upon him, he should trust to the indulgence of their lordships for his pardon, if, in the discharge of his duty, he happened to misinterpret the order which they had issued, and he therefore begged of their lordships, if he was guilty of any such misinterpretation, to impute it to accident, or rather to misfortune, that he had not caught in its right sense their lordships meaning, and not to any intention on his part (which before God he disclaimed) of offering any observation to their lordships which should in the slightest degree disobey the instructions which they had given him. He gathered from what had been intimated to him, that those instructions commanded him to confine whatever he had himself to urge, or whatever her majesty had commanded him to urge on her behalf, to the manner of proceeding with respect to or upon the bill which had been served upon her majesty last night by the ordinary officer of their lordships; and assuming it to be right to proceed by bill—

The *Lord Chancellor*.—"By *this* bill."

Mr. Brougham.—By this bill? He would take it so; because by that admission their lordships would decide two points in his favour:—first of all, they would determine that the proceedings by bill (to which many heavy and grievous objections might be made, if permission

were granted to enter into that question) were the proceedings which their lordships had adopted; and, secondly, they would determine, in so inflexible a manner that it would be in vain to offer resistance to it, that they would proceed by bill in no other manner than the bill then before their lordships warranted them in doing. He should therefore presume that that bill was unalterable at present, and irrevocable till some future opportunity, and should argue for his illustrious client under the idea that he was confined to the manner of the proceedings, and the time or times in which those proceedings were to take place If he rightly understood the instructions of their lordships with respect to the mode of proceeding, there was no occasion for him to say a word upon it; the only mode of proceeding which their lordships could now adopt was to propose the second reading of the bill; and therefore, as he was not prepared to propose that the third reading of the bill should precede the second, or indeed to suggest any other fanciful mode of legislation, he felt that, when they called upon him to argue on the mode of proceeding which was instituted against his illustrious client, they knew that they were not subjecting themselves to a long argument, as it was impossible for him to urge any argument at all upon such a subject. He could understand the instruction which had been given to him with regard to the time of proceeding, but he declared his incapacity to comprehend the instruction which had been given him relative to the mode or manner in which it was to be conducted.

Having stated thus much to their lordships, he should now confine his argument to the time of proceeding only; but he had been led to suppose that there were two points to which their lordships had wished to direct his attention, because they had first addressed him upon the manner of proceeding, and had afterwards limited him to the time or times of such proceeding. He now found that he had been mistaken; for if he were to go into the argument whether evidence ought to be received before the second reading of the bill, which the rules of their lordships' House (for which he entertained the highest respect) precluded, he should labour entirely in vain, and would be met by the obvious remark, that counsel ought not to be allowed to dictate to their lordships the mode in which they were to proceed, and also that they ought not to be heard in detail against the bill until its second time of reading. The question of time was, therefore, one of the utmost importance, not only as regarded their lordships, but also with respect to the illustrious party whom he represented; for if he could satisfy their lordships that the nature and tendency of the present bill was such as suspended absolute destruction over the head of her majesty—if he could succeed in showing that the interests of justice demanded that it ought to be speedily discussed, and that her majesty the queen had, in consequence, commanded her legal advisers to inform their lordships, as he on their behalf now did inform them, that she did not call for any delay; that she was ready to proceed forthwith in her defence against the report of the secret committee, and also against the charges in the preamble to the celebrated bill now before their lordships; that she desired their lordships to prove that evening, if they could, or else to-morrow, all the accusations which were contained in that unparalleled preamble to a bill as unparalleled and unprecedented as the preamble itself.

If he could succeed in the argument which he had urged, partly from the indulgence extended to him by their lordships, and partly in the delivery of the strong, impetuous, and even clamorous desire of her majesty to have the accusations, now brought, proved against her, if either their lordships, or the attorney-general, or any other of the king's counsel, could prove them; then he trusted that he should have made out a case, even in confining himself strictly to the question, which would induce their lordships to throw out the present bill now upon its first time of reading. The suggestion of throwing it out, even in its first stage, was one which arose naturally out of the argument which he had been allowed to employ upon the time of the proceeding; for it was his duty to protest against all delay, and to satisfy their lordships, that the only just and consistent measure which they could pursue—indeed, the only measure which did not militate against the safety of his illustrious client—was, either by throwing out the bill in its present stage, or else by proceeding immediately to read it a second time.—The learned gentleman then proceeded to state, that it would not be a difficult matter to deal with the instruction of their lordships, if

it were distinctly stated that he and his learned friend were not to be heard against the bill until its second reading, because such instruction would be consistent and intelligible. But, from the obscurity of the present instruction, he was at a loss to know the exact path on which he ought to walk; and he was afraid that, if he veered but a single hair's breadth, and but for a single moment, from the straight line upon which he was suffered to tread, even though it were for the mere purpose of gaining a purchase, in order to get on better in that straight line, he should be accused of not showing the deference which was due, and which he was particularly anxious to pay, to the expressed wishes of their lordships. He trusted that their lordships would consider the advantage with which he should be able to address them, if he could throw off the advocate, and address them as an individual upon this question. The relief he should gain by such a change would be incalculable; as he should then only have to answer for his opinions as an individual, and not for those which he might have to propound as an advocate. Feeling, however, that he was now standing at their lordships bar in the character of an advocate, he felt obliged to fling himself upon the compassionate consideration of their lordships, and to implore them to consider any thing offensive which he might utter, as forced by necessity from the advocate, and not from the individual, who addressed them.

He now felt it to be his duty to state that it had reached her majesty—and these were times, and her's was a situation, in which the ear was open to every report—but it had reached her majesty, that it had been argued (and he had himself seen the argument in the public newspapers, and therefore, aware, as he was, that it could not at all influence their lordships decision, he was still bound, on behalf of his illustrious client, to guard against any popular impression reaching the minds and perverting the judgments of those who were her judges, who he trusted would treat it with the contempt it deserved) that she was to be dealt with as if she was the lowest and not the highest subject in the realm. In opposition to that argument he would say, "God grant that she were in the same situation with the lowest subject in the realm! God grant that she had never risen to a higher rank than the humblest individual who owed allegiance to his majesty!" For, if she had not, she would not have had occasion to complain of a single day's delay in obtaining relief from the load of calumny which had been cast upon her by the present anomalous proceeding. If she had been the meanest instead of the most exalted personage in the country, she would have had no proceeding served upon her, such as he held a copy of in his hand; she would, on the contrary, have been fenced round by the triple fence whereby the law of England guards the life and honour of the poorest female. For what, he would ask, was the nature of the proceeding now instituted against her majesty? A bill of Divorce, not founded upon any evidence of adultery—a bill of Pains and Penalties, not founded upon any previous proceedings, either in the courts of common or civil law. Before such a bill could have been introduced against any other individual, there must have been a sentence in the consistory court—there must have been the verdict of a jury, who might have sympathised with her feelings—who, being taken from the same rank in life as herself, and knowing that the evidence produced against her might, under similar circumstances, be produced against their wives and daughters the next, would have been influenced by a desire to guard against a common danger. There would then have been among her judges none who were the servants of her husband; for her counsel would have had the right of challenging all such—none who were hired during his pleasure—none who were placed in a situation to feel gratitude for the past, or expectation for the future favours which he had it in his power to bestow. She would have been tried by twelve honest, impartial, and disinterested Englishmen, at whose doors the influence which would act upon her present judges might agitate for years, before it would make the slightest impression either upon the hopes or the fears which it was calculated to excite. She had, therefore, good cause to lament that she was not the lowest subject of his majesty; and he could assure their lordships, that she would willingly sacrifice every thing, excepting her honour, which was dearer to her than her life, to obtain the poorest cottage which had ever sheltered an Englishwoman from injustice.

Upon such grounds was founded his reason for making as short as possible

(for he was still observing upon the time of the proceeding) the interval which would elapse between the present evening and the discussion on the second reading of the bill. He had many other reasons of a similar nature, all pointing in a similar direction, all tending to the same point—he meant the granting of her majesty's prayer for the immediate commencement of the investigation—which he was prevented from urging by the limits to which their lordships had confined him. He could not, however, refrain from calling the attention of their lordships to the situation in which they might hereafter be placed, and to the anomalous condition to which they might be reduced, if they did not get rid of the present bill as suddenly as possible, and indeed altogether. Their lordships would observe, that there was nothing in the allegations of the preamble which precluded their lordships from becoming judges in a criminal proceeding, upon charges arising out of the very evidence which they were called upon to examine as legislators in support of those allegations. He took it for granted—indeed, his respect for their lordships compelled him to suppose it impossible that they could have done otherwise—that they had well perpended whether the whole charge which had been brought against his illustrious client might not amount to an impeachable offence. He took this point, he repeated it, for granted; because, if an impeachment were not an impossibility they would never have taken into their consideration a bill which by probability, might render them masters of the evidence on which they might afterwards be called upon to give sentence as judges. He took it also for granted that it was equally certain that they must have also decided another point; he meant this—that where there was no indictable offence which could be punished by the common law, there also was then no impeachment which could be sustained; though, for his own part, he must confess that he did not know any principle of law, or any course of practice, upon which that doctrine could be defended. Indeed, he had always understood that an impeachment was never instituted except where an indictment could not lie; but their lordships, from the peculiar constitution of their House having had the opportunity of learning the opinion of the twelve judges, appeared to have come, upon long and mature deliberation, to a conclusion diametrically opposite to that which he had, no doubt very erroneously, supposed to be the true one. Still, though he conceded all these points to their lordships there arose out of the bill itself a point, which no respect to their lordships could induce him, as an advocate, to give up for a single moment. Granted that no high-treason had been committed under the statute of Edward the 3rd, because the adultery—or he ought rather to have said, the alleged adultery—had been committed with a foreigner, and abroad; yet he would ask, was Malta no part of the king's dominions?—Was Gibraltar not included in the possessions of his majesty?—How could he, or their lordships, tell that his illustrious client might not have touched at Malta, where he believed she actually did touch, during her voyage for a-year and a half up and down the Mediterranean, with the very individual with whom this adulterous intercourse was said to have been carried on?—How could they tell whether it might not have been carried on at other places *intra præsidia*?—If such adultery had been committed in such places, were their lordships prepared to admit that an impeachment could not be founded upon it in another quarter?—Supposing that they were inclined to make that admission, he would then ask them—or rather he would take it for granted that their lordships had applied also to the court of Admiralty, and had decided another point against him by the authority of the civil courts of the country. That point was, that nothing done on board of a king's ship could be construed into———

The *Lord Chancellor* here interrupted Mr. Brougham by observing to their lordships, that he thought the learned counsel was transgressing the rules of the House in alluding to what their lordships might be supposed to have done or left undone. He was likewise of opinion, that, in pursuing that line of argument, the learned counsel had not complied with the instructions which had been notified to him as the commands of their lordships. If their lordships thought fit to allow such a latitude of argument, they certainly had the power to do so; but, as a peer of parliament, he must say, that he would not sit upon the woolsack to listen to it.

Mr. *Brougham* then continued.—He would persist in making the attempt to

pursue that line of argument until he was silenced by the authority of their lordships. In doing so he was only performing a sacred duty which he owed to his illustrious client, and which his conscience informed him that no difficulty or danger ought to induce him to neglect. If prevented from performing it, he must certainly bend before their lordships' power. Their lordships, however were used to be just.

The *Lord Chancellor.*—Their lordships were just, and had made their present order for the purpose of continuing so.

Mr. *Brougham.*—As he was not allowed to proceed in the course which he had intended, he should now proceed to show the immediate connexion which existed, between the topics on which he had just been speaking and the point of time to which he had been limited by their lordships. His argument was to prove, that this bill ought to be sent out of doors immediately, and that it could not lie 24 hours upon the table without producing great and imminent danger to the safety of his client. Indeed, he would assert that, unless that bill was discarded by their lordships, no justice could be done to his illustrious client. The line of argument which he was then adopting was perfectly consistent with the instructions of their lordships; for, the more clearly he could show the bill itself to be pregnant with mischief and danger, the more did his argument apply to the time in which this proceeding was to be carried on. As he had been instructed to confine his argument as to the time, he could not help observing, that the light in which he had endeavoured to put this question was one which had struck upon his mind most forcibly; and he therefore felt himself bound to present it to their lordships until he was silenced by their authority. All that he had now to add was, that her majesty desired no delay; that she was most anxious to have the evidence who were to substantiate, or rather to endeavour to substantiate, those foul and false charges against her honour, called without delay to their lordships' bar. He ought perhaps to apologize for applying such language to the preamble of a bill which their lordships had allowed to be read a first time; but still his sense of duty informed him that he ought to be allowed to say that those charges were foul, false, and most malignant, since they originated from a report, which, having been made in the first instance upon written documents, and without the examination of witnesses, and having been backed in the second by the approbation of their lordships, had propagated many circumstances to the great and manifest detriment of her majesty.

The learned gentleman then proceeded to say that the queen was not only desirous that the proceedings now instituted against her should meet with no obstacle on her part to a speedy investigation, but was even desirous that the proceedings, after they had once commenced, should continue *de die in diem.* He was not certain whether in making that observation he was conforming strictly to the line which their lordships had chalked out for him; but what he wished to urge was, that their lordships, after they had once commenced the proceedings, ought not to allow them to meet with any suspension; for could there be a more crying injustice towards her majesty, than to go on with the accusations which had been preferred against her, to hear part of them supported by evidence; then to discontinue the examination of them, in order to allow that evidence to be collected, sorted, and patched up, so as to tally even with those parts of it which made most materially in her majesty's favour? The first demand, therefore, which he had to make of their lordships, was an immediate, the next was, a continued proceeding. That this would not occasion any difficulty or inconvenience to those who had preferred these accusations, he conceived that he had a full right to assume; for was it to be imagined, that between the period when the Milan commission was first established and the present hour, they had not had time sufficient to bring over the evidence requisite to substantiate them? Was it to be presumed that any of the parties (he begged pardon—there was only one party—his illustrious client) was unprepared? He said there was only one party of which he could at present take notice, for he had no right to call their lordships, who were to be the judges, a party to this prosecution. Still, when he saw that the attorney-general, or some person appointed by him, was to appear at a future day by order of their lordships, he could not help surmising that there must be another party. He would assume that the party opposed to her majesty was an abstract or an allegorical personage, called Public

Justice. Still he would say, that if public justice had collected charges in March, 1819, it might have been prepared to support them by July, 1820. But then he supposed, it would be said that this proposition would take the accusing party by surprise. It might be so; but when he saw that there were persons high in office, and ministers of the Crown, ordering the counsel for the Crown to attend on behalf of the prosecution, he thought he had a right to assume (though he knew nothing of it officially) that they had something to do with it. But if the ministers should say that they were taken unawares, and without preparation, then he would apply himself to their lordships not only as a branch of the legislature, but also as a court of justice, not to allow further time to those individuals, who, in this case, were his antagonists, and of whom it would be improper and highly derogatory from their lordships, to suppose that they could be among the judges of his client. From such a plea, if made, he would draw two conclusions—either that they were ready with their witnesses, and able to go on with their charges (which he deemed to be a false conclusion); or, what he believed to be the true conclusion, that the king's servants believed every iota of the charges in the preamble to the bill to form part of a tissue of the most gross falsehood and the most rank imposture. It was impossible for a moment to suppose that the king's ministers believed the queen guilty. Had they really thought that there was the slightest foundation for any one of the charges in the preamble to the bill, they would not have ventured to offer her 50,000*l.* a-year, with the privilege of residing in a foreign court with the rank and dignity of a queen.

The Bishop of *Exeter*.—My lords, I move that the counsel be ordered to withdraw. [Counsel having withdrawn] I ask the House, whether the counsel has or has not attended to the directions of the House?

Lord *Holland* said, that he had never heard a more extraordinary appeal. The counsel had been directed to confine themselves to certain limits, and they proceeded accordingly; but in the midst of the speech a reverend lord had thought fit to rise in his place, and ask, as a matter of information, whether the counsel were obeying the direction of the House? If the reverend lord had formed any opinion of his own in the negative, it became him with the great knowledge and acuteness he possessed, to point out in what way the counsel had deviated. It was strange, indeed, that he should call upon the whole body of the House to decide the point, merely for his personal satisfaction. After what had occurred, it would be even stranger still if the reverend lord did not undertake to go through the whole argument of the learned counsel, and prove in what way he had deviated from the line the House had directed him to follow. This would afford the House a singular advantage, especially as the counsel had himself stated that he had great difficulty in understanding the precise points to which he was to direct his observations.

Mr. *Brougham*, having again taken his station at the bar, proceeded:—In adverting to the question of time, he had called upon the House to proceed without delay, and one answer he had anticipated was, that the supporters of the bill would say that they were not yet prepared with their evidence. To this he was endeavouring to reply when he had been interrupted: he was attempting to show that the confidential servants of the Crown were placed in this dilemma—either that they were satisfied that there was some ground, some colour for the accusation, which might be a sufficient reason for not proceeding immediately; or, on the other hand, that they were not ready to go on, because they had been taken by surprise, because the bill had been forced upon them, and because they themselves, utterly disbelieving every tittle of charge against the queen, could not be prepared with testimony to support the preamble. He had ventured humbly, and out of respect to the ministers of the Crown, to assert, that if they had believed, he did not say any material part of the allegations, but any part, however insignificant, they never would have pursued that line of conduct which was now notorious; they never would have consented that her majesty should remain abroad unmolested, without any measure of degradation or divorce, exposing the dignity and honour of the Crown, and the morals of the country where she resided—the first to be lowered, and the last to be contaminated. They had offered her a splendid, a royal revenue; she was to live where she chose, to be announced at foreign courts as the lawful and rightful queen of England; and, above all, the ministers of the Crown

were themselves to move addresses to her in parliament. Was it to be credited that they would have acquiesced in all this, if they had given a moment's belief to any part of the statements in the preamble of the bill?

Having dealt with this topic, so far at least as to bring it within the notice of their lordships, he begged once again to be allowed to implore the House to mark the painful situation in which her majesty was placed. He said nothing of the condition in which her counsel stood; they must do their duty, and had no right to complain; but the situation of the queen was hard indeed. Before any step had been taken against her—before her title had been disputed—before even men's minds were made up that any thing should be done, various measures had been adopted to stigmatize and degrade her. If those who hitherto had prosecuted this business were indeed aware of the full weight of the evidence—if they relied upon it—if they knew that it must in the end lead to a conviction of enormous guilt, they still had happily contrived that the bitterest stigma, the basest degradation, should precede even that conviction. How unspeakably more severe was the lot of the queen, how infinitely more unjust the treatment she had experienced, since it appeared that the very first step taken to ensure her a fair and an impartial trial was previously to sentence her —or rather to pass over the form of sentence, as they passed over the evidence —and to inflict a punishment that had never been awarded, arising out of a trial that had been never had; and all this for the purpose, forsooth, of securing her afterwards a calm and an unprejudiced hearing. Of this the queen now complained: she could not complain before, because till now she never knew that she was to be put upon her trial. Under these circumstances she had a right to remonstrate that the first step towards bringing her to her trial was not only to deprive her of the presumption of law (falsely called merciful, because it was only just), that until the accused were convicted she should be deemed innocent; but to deprive her of it, not by general expressions and vague insinuations, but by affixing a stain upon her forehead, which compelled every man who resorted to his church to see in the very service of God that a crying injustice had been done to his fellow-subject. From all such persons as had inflicted this odious stigma—from all such authorities—from every species of extrajudicial proceeding—from every cast, colour, and shade of party feeling—from every kind of oppression and indignity, her majesty appealed to this House. She came before their lordships as the highest branch of the legislature, the supreme court of judicature—she claimed protection from those who were now trying her by bill, and who hereafter might be called upon to try her by impeachment—who were now legislating, when they might at some future period be required to sit in judgment; but, whether acting in the one capacity or in the other, with the confidence of injured innocence she flung herself upon the House, and trusted that no mixture of party—no presence of interested persons—no adventitious influence exercised out of doors—no supposed want of sympathy with the feelings of the country—no alleged, though falsely alleged, tendency on the part of their lordships to truckle to royal favour, would stand between the queen and justice, or prevent her case from receiving a fair, impartial, and an unprejudiced decision. She appealed to their lordships with the more confidence, because she knew that the House was composed of the most illustrious peers, spiritual as well as temporal, that any nation of the world could boast.

Mr. *Denman* immediately followed on the same side. In submitting to their lordships those prayers not contained in her majesty's petition, he said, he was placed in a singularly difficult situation between the instructions he had that morning received from his royal client and the directions of the House. It would immediately occur to every man, that when a charge of this weighty nature had received the sanction of a bill—when that bill, which had been once read, imported not only degradation from rank, but the dissolution of an existing marriage—considerations of a very different kind must have thronged into the mind of the party accused from any questions as to the mere mode and time of such a proceeding. He would not conceal from their lordships that he and his learned friend had received from their illustrious client one especially delegated duty, namely, to press upon the House the absolute necessity, if justice were to be done, that this most extraordinary, most anomalous, and most unprecedented proceeding should be brought to the speedi-

est possible conclusion. Therefore, by the instruction of the House as to the manner, he had not been so much taken by surprise, though her majesty did not presume to prescribe what course their lordships ought to pursue; but the question of time was of the last importance, because, unquestionably, if these heavy charges were to remain a rankling poison in the public mind, afflicting even that judicature which might ultimately be called upon to pronounce as to the queen's guilt or innocence, he should despair of a just decision from the united wisdom of the world. On a former occasion, her majesty had submitted an application, that the secret committee, which she was informed had been instructed to report, should not enter upon the inquiry until she were provided with the means of defence; that petition, like the request of yesterday, was rejected. He alluded to this fact, because he was anxious, in the first instance, to show that there was no inconsistency in then requiring delay, and now most earnestly entreating the House that the bill just introduced should be allowed to take its unobstructed course, that the whole might arrive at the most speedy termination. It was not to be supposed that an accused female, and that female a queen, would willingly allow an imputation of this kind to rest upon her without asserting her innocence, and defying her adversaries to the proof of her guilt. If any delay occurred, it was impossible not to see that the public sympathy, so powerfully excited on this occasion, for the injured sufferer, might be perverted and polluted by such charges going forth to the world in the authoritative shape of a bill. However imperfect, then, her means of defence; however deprived of the instruments to repel so deadly an attack upon her honour, the queen was anxious to meet her accusers face to face—if possible at this very instant, but, at farthest, after the lapse of only twenty-four hours. No injustice could be done by such a course—there was nothing to prevent the production of all the evidence against her because that evidence had already been submitted to a secret committee: the whole case, on the part of the Crown, had been heard by a body which had felt itself warranted, in the character of a grand jury, to pronounce upon the accusation, and to call upon the queen to reply to it. He was aware that that committee sat to examine the contents of a sealed bag—he was aware, also, that a second bag was submitted to its consideration; but he presumed that its deliberations took a wider range. Speaking as an English subject of a committee of the higher House of the English parliament, he was confident that it could not have proceeded upon written documents alone: acting as a grand jury on charges of the most atrocious description, it could not have decided without the examination of a single witness, or without seeing a single person from whose conduct and deportment it could judge of the truth or falsehood of the fearful accusations. The same evidence produced before the secret committee last week might be brought before the whole House to-morrow; the queen would then have an opportunity of confronting her foul calumniators, and of convincing the world that the verdict of the grand jury committee, if not false, because it was founded upon testimony of some kind however disgraceful, was at least erroneous and mistaken. In all our courts of justice such was the ordinary and established course; the grand jury itself was composed of persons wholly indifferent; they were summoned by a compulsory process and by a sworn officer; and if he were in any way connected with the parties, by an old statute, the bills found by the grand jury he had summoned were null and void: the witnesses examined were all sworn in open court; and lastly, the true bill, by being filed, commenced its first stage of proceeding. If the same course had been pursued in this case, where would be the injustice of pressing it forward immediately? On a charge of high treason, the prosecutor and the accused were by law entitled to delay; but this case was different, and the royal lady for whom he appeared demanded immediate inquiry, and called upon her accusers to prove their case, that she might have an opportunity of vindicating her slandered fame, and covering them with shame and ignominy.

In looking at the analogies of common law, and in mentioning the words of "jury" and "courts of justice," he was well aware how inferior those institutions were to the illustrious body he was now addressing. Yet, though their lordships had adopted many of the principles by which they were guided, it was somewhat strange to observe how complete a contrast the whole of this proceeding formed to the ordinary and regular trial of a Bri-

tish subject. As a British subject, the queen now stood before their lordships; as a British subject she claimed not to be excluded from rights which the meanest individual in her kingdom enjoyed. She asked for no privilege—for no favour—for no advantage; justice, and strict justice only, constituted the whole of her demand. It was difficult to separate the question as to time from the nature of the offence and the character of the proceeding: in this respect he might, therefore, be guilty of some unintentional infringement of the directions of the House; but so essential was the urging of those points to the interests of his illustrious client, that he should venture to proceed with them until interrupted by the House. In the first place, this was a bill of degradation and divorce, without the intervention of a jury or the sentence of a spiritual court; and he need not remind the House that in a case between two subjects those wholesome forms could not have been avoided. In the case of the king, such a mode of proceeding, it was true, could not be adopted; but he was not aware that the objection applied to the prince of Wales, even though acting in the capacity of Regent; and in the bill it was charged that the misconduct of the queen had continued for six years. He had a right to presume, therefore, that until lately no sufficient ground had existed, or the ordinary course would have been pursued. Did it follow, however, that every thing was to be taken for granted in the same way as if the usual forms had been strictly observed? On the contrary, if the mode of defence furnished by the intervention of a jury were denied, it seemed to follow from these premises, that no divorce could now be obtained. The royal character of both parties to this suit were here laid aside, and, in considering in what respects the conjugal contract had been violated, and the consequences that ought to result, it would be fit that the House should strictly examine what had been the conduct of both the exalted individuals concerned. It would be its duty to examine, whether the wife had had no reason to complain—whether any circumstances of recrimination could be advanced—and whether the abandonment and destitution of the wife, if it had not cleared her of moral guilt, had not at least deprived the husband of his remedy. In all he was now advancing he did not for a moment concede that it was possible for her majesty to have been guilty of the foul charges against her; but if the House should for a time be persuaded by some infamous witnesses to believe that there was the shadow of truth in them—even if he admitted, for the sake of argument, that a degree of criminality did attach to the queen on these accusations, which nothing but the most infernal malignity could have invented—still she might be able, by the circumstances of recrimination to which he had alluded, to defend herself sufficiently against the operation of this bill. Was it, then, too much to ask that one moment's needless delay should not occur, that the queen might know her accusers, see the witnesses, prove their infamy, and establish her own purity?

As to the mode of proceeding, it was her majesty's pleasure that her counsel should urge, as indispensable, that she should be furnished with a list of the witnesses against her; it was, in fact, so obviously necessary, that he could conceive nothing more alarming than that any one who might sit in judgment upon her should for one instant doubt its propriety. It had been doubted, whether this was not a case of high-treason, and, if it had been, the law of the land would have given the accused a right to such a list; and, because the proceeding was separated by such nice and merely technical differences, was it fit that it should be withheld? In every case, indeed, where a grand jury intervened, the names of the witnesses were of course endorsed upon the bill, and a full opportunity was afforded long before the trial, of impeaching their character or their principles. Did the House mean, with such dreadful charges impending over the head of the queen of England, to say that hers was the only case to be excepted—that a right granted to the meanest subject was to be denied her? If so, it would become the counsel of the queen to consider well whether it would not be their duty, not only to their ill-fated and illustrious client, but to the world, to abandon her defence, and to leave her accusers, who thus pursued her in defiance of the protections of the law, and the dictates of common justice, to the indignation and vengeance of posterity.

In addition to her claim for a list of the witnesses, her majesty expected that the rest of this grave proceeding should not form a striking contrast to the ordinary course of law. From the days of

Henry 8th to the present moment no precedent could be found to guide a parliamentary decision: this was the first attempt of the kind since the reign of the arbitrary sovereign to whom he had alluded; in the interval, the mild principles of English law, which protected the weak from the vindictive vengeance of the strong, had prevailed, and cases of this kind had been left to the ordinary tribunals. Though bills of attainder and bills of pains and penalties had been passed, they were in general matters of regret to constitutional minds; but they had always received one sweeping apology—state necessity. Could it be pretended that this apology existed in the present case, when six years of misconduct had elapsed, without trial, complaint, or remonstrance—when it was known that a commission had been laboriously employed abroad in sifting rubbish for evidence which was afterwards embodied into a report, and when that report had been long in the hands of the advisers of the Crown without any proceeding being founded upon it.

All pretence of state necessity then being wanting, as far as dispatch was concerned, would it be said that it existed on the ground of danger arising from spurious issue? Where was the proof of any connexion to produce a foreign offspring to claim succession to the Crown? Admitting, however, this plea of state necessity, it was the desire, the claim of her majesty, that it should be immediately carried into execution.

He wished to offer another consideration to their lordships; and whether it fell strictly within the order they had issued, he would not determine; but it was the desire of the queen that this application should be made to the House. She had heard of witnesses by scores, by hundreds—and, if by thousands, considering the quarter from whence these charges proceeded, she would not have been surprised; her humble request, therefore, was, that all the evidence contained in the green bags should be communicated to her majesty and the public. She wished to shelter herself under no concealment—the more the case was sifted, the more her own innocence and the guilt of her enemies would be apparent. She wished for every thing to be conducted openly, fairly, and without reserve. She feared nothing from inquiry, or from the utmost publicity; on the contrary she invited and courted it, and therefore was most anxious that the whole of the evidence should be disclosed that the full means of investigation as to the nature and character of the testimony might be afforded to her.

He had already stated more than once, that he had no guide in an anomalous case like the present, but in the principles of the common law of England: that common law knew of no secret committees—no tribunals where the most illustrious persons might be accused and condemned without a hearing; and he only entreated, that the same forms and modes pursued in the lower courts should be adopted here, by which the queen would enjoy the fullest opportunity of vindication at the earliest possible moment: she would then be placed in a situation where she might examine how far the conjugal relation had been preserved on both sides—whether it had not been at least first violated by her accuser in almost every particular in which a queen could have a right to complain of her royal husband. Whether, after the proof of such allegations, the House would think fit to proceed at all, and to pass the bill upon the table, it was not for him to state; but if injustice must be done, he trusted it would not be forgotten, that the parties were thus far upon equal terms; they were man and wife, and if, in the course of what he or his learned friend had said, any thing had dropped which might be thought to bear hard upon the stronger party, he trusted it would be attributed to the zeal they felt in advocating the cause of the weaker. It had been said, that this was a bill of divorce, not of pains and penalties; he knew not what heavier pains, what severer penalties could be devised or inflicted, than hurling an individual from the highest rank in station, and the loftiest point in character, to the lowest level and the basest degradation, and that by the proceeding of a secret tribunal, by the constitution of which all vindication was precluded, while it lent a too ready ear to the vilest aspersions. Was there no pain, no penalty, in being degraded from the rank of queen of England, and for a supposed crime, the commission of which would cover the individual with never-dying infamy? If there ever was a bill of pains and penalties in the strictest sense of the word, it was the measure now upon the table. If however, pains and penalties meant only temporal

punishment, fine, imprisonment, and corporal infliction, then he insisted, that this bill contained no protection of the queen from those pains and penalties. After the degradation of character which this bill would inflict, she would still be subject to impeachment—still exposed to the penal consequences of this imputed crime. He was aware that in pleading thus weakly, though zealously, he had done great injustice to the cause he was employed to advocate: it might have been better had he remained silent, and left unimpaired on the minds of their lordships the effect of the speech of his learned friend. He entreated the House to give the full affect to all the arguments his learned coadjutor had so forcibly advanced, and he was sure that the deep impression they had made could not be easily obliterated, and he concluded by expressing his fervent hope, that the House would still do the queen that justice, which, from the extraordinary course of proceeding hitherto adopted, there was but too little reason to expect.

Counsel were then ordered to withdraw.

The Earl of *Liverpool* said, that some delay would be requisite to make the necessary arrangements for proceeding with the bill. The regular interval between the first and second reading of bills of this kind was a fortnight. He wished that as little delay as possible, consistent with the interests of justice, and the usual course of their lordships proceedings, should intervene in the present case; but some time must be required for making the necessary arrangements, for securing a numerous attendance of their lordships, and the presence of the learned judges. He would propose to fix Monday next as the day on which he would be able to state to their lordships when he thought it would be convenient to read the bill a second time.

Lord *Holland* could not help making an observation or two on what had fallen from the noble earl. After he had submitted certain papers to their lordships—after he had moved for a committee to examine these papers—after that committee had finished their labours and made their report, and after the noble earl, in consequence of that report, had brought in a bill, which had been read a first time, the illustrious individual whose interests and character were affected by these proceedings applied for an immediate trial, and the noble earl proposed delay. On what grounds was this delay proposed? The noble earl said it was usual to allow a fortnight to intervene between the first and second reading of bills of this kind. What did the noble earl mean by this comparison? Was this a bill like those common bills introduced for relief at the instance of any other individual, and not a bill of pains and penalties? During the whole of this discussion their lordships had heard much of precedent; but what was the precedent on which it was now proposed to act? These bills of pains and penalties were exceptions to all principle, to all rule, form, and precedent. The noble earl had given his bill a double character, that of a bill of divorce and of pains and penalties; but as it was not a common bill of divorce, he was not entitled to follow the rules which governed their lordships in such cases, but ought to proceed as was usual with bills of the latter description, where they immediately went to trial. He did not say but that reasons for delay might be given. He admitted the force of one of those stated by the noble earl, namely, the absence of the learned judges, but he could not see the force of the other. The analogies of common law could not here be followed. He called upon the noble earl, therefore, to state what were his other grounds of delay, and what he meant by necessary arrangements? Under that term did he include the necessity for farther evidence? Were they to understand that the evidence submitted to the committee was insufficient to support the charges? And was it necessary to wait until more were received from abroad? The proceedings against her majesty had been going on for a year. His majesty's government had been collecting depositions for so long a time. The noble earl must have considered deeply, what course of proceeding it was proper for him to pursue; and yet he was not now prepared to state when he would be ready to go on with the trial.

The Earl of *Liverpool* said, he would allow that this was a bill of pains and penalties conveying with it the consequences of a divorce. It was not a bill of divorce; for a bill of divorce was an application of one person to be relieved on account of adultery from the matrimonial ties contracted with another. This was not a bill for the relief of one individual from another, but for the relief of the state, which was supposed to be aggrieved by the acts of

an individual. He saw no reason for altering the notice which he proposed for Monday. To say that their lordships ought to proceed to-morrow, at 7 o'clock, because counsel required them to commence within 24 hours was absurd. The last time the learned counsel addressed their lordships they asked for a delay of nine or ten weeks. He did not mention this for the purpose of insinuating any thing against the learned counsel. He was aware that different circumstances might render the two requests consistent. Three weeks intervened between the first and second reading of Atterbury's bill, and yet that was considered a proceeding forthwith. He delayed his motion till Monday, that he might be able to ascertain when a full attendance of their lordships, and the presence of the judges, could be obtained.

The Marquis of *Lansdown* said, that although he was not prepared to accede to the request of her majesty, that their lordships would proceed in 24 hours with the trial, yet he was convinced that their lordships ought not to let more than 24 hours pass without considering when they were to proceed. The interests of justice, and the requests of her majesty, demanded of them, that they should not allow four days to intervene without considering when and how they were to begin the trial. He could scarcely believe that the noble earl, in possession of all the facts, and accustomed, as he must be, to reflect deeply on the measure before the House—having moved for a secret committee, and having submitted papers to them on which they had reported—having had the good fortune to obtain the concurrence of their lordships in all the various changes of proceeding, should now be unable to point out the course which he meant to pursue, and should ask four days' delay to consider of it. He thought 24 hours quite sufficient for preparation.

The Earl of *Carnarvon* contended, that the noble earl ought to give his notice for to-morrow. How would the illustrious person accused feel, if, after bringing forward such charges as were contained in the bill on the table, ministers, by asking delay, declared that they were unprepared to carry their projects into effect? If they had any reasons for delay they should be connected with great and important interests. Nothing secret, nothing that could not be revealed, should prevent the immediate commencement and steady termination of proceedings which so completely occupied the public mind. Ministers ought not, on the present occasion, to insult the nation with a show, which, in the lamentable circumstances of the royal family, would call down upon them nothing but general execration. They ought not to exhibit their sovereign as an actor in a gaudy pageant, while his consort was subject to proceedings which might degrade her to the lowest abasement. Let them do their duty, in advising their royal master to concur with the wish of every sensible man in the country, and postpone the coronation to a future period, though he would now make no specific motion on the subject, yet, if ministers, whom he implored to consider the matter, still persisted in their design, he would bring forward a proposition on a future day for an address to the Crown, or some other parliamentary proceeding, to postpone the coronation.

Earl *Grey* sincerely wished that the observations of his noble friend would receive from ministers that attention which they deserved, and that, under the present painful circumstances, the coronation would be deferred. In saying this, he was sure he uttered the wish of every feeling man in the country. With regard to the point immediately before them, he concurred with his noble friends in raising his voice in support of the proposition against delay. Considering that the noble earl must have been long in possession of all the facts and circumstances, and considering the intervals of delay that had already occurred, it was not too much to expect that he should be prepared to state immediately his views and proposed mode of proceeding. If it was unreasonable to expect that he should immediately do it, surely to-morrow was the most distant day to which he ought to postpone his notice. The necessary arrangements could only be, of three sorts—either for the production of witnesses, or for obtaining a full attendance of their lordships, or securing the presence of judicial advice. Now, which of those arrangements rendered delay necessary? With respect to the production of witnesses, the evidence which they could give must have been months ago collected. It was impossible therefore, to conceive why the noble earl, if he had done his duty, should not be ready within twenty-four hours to state how he meant to proceed with regard to it. The arrangements for securing a full at-

tendance of their lordships could not occasion any delay; for, painful as it was at this season of the year for their lordships to begin a proceeding which might occupy so much of their time, he was sure that no personal consideration would prevent them from executing their duty. But, with respect to the judges, was it indispensable to have their presence? If it was, he was afraid that the proceeding must be much farther postponed, for by Monday they would have departed for their several circuits. He would therefore propose that their lordships be summoned for to-morrow.

The Earl of *Liverpool* said, that it could make no difference ultimately, whether he stated his plan to-morrow or on Monday; for, with regard to the judges, they would not all go on the circuits, and the presence of those who were going could be as little commanded in the one case as in the other. The presence of all the judges of course, would not be necessary.

The Earl of *Darnley* deprecated all delay, and could not avoid lifting his feeble voice, in accordance with what had been so well said by the noble lords who had spoken on his side of the House. On many accounts he wished the ceremony of the coronation to be postponed, and on none more than the agitated state of the public mind.

The original question, that their lordships be summoned for Monday, was then put, and the House divided—Contents, 56; Non-contents, 19: Majority, 37.

HOUSE OF COMMONS.

Thursday, July 6.

MOTION RESPECTING THE MILAN COMMISSION.] Sir *Ronald Fergusson* rose to bring forward his motion respecting the Milan Commission. It was with unfeigned regret that he felt himself bound in public duty, conscious as he was of his own inadequacy for the task, to bring this question under consideration. Undoubtedly, the subject was of a most delicate and painful nature, and, in its result, of the utmost importance to the peace and safety of the country. If his majesty's ministers had pursued a proper course either by not erasing her majesty's name from the Liturgy, or by retracing their steps when they saw the mischievous consequences of their conduct, the ferment which now agitated the public mind would have been avoided. The noble lord had on a former occasion observed, that if her majesty had not come to this country, no proceeding would have been instituted against her; and indeed it appeared that her crime was nothing more than daring to set her foot on English ground. The consequence of that act was, that two green bags were laid on their table, of the contents of which, however, he thanked God that House was totally ignorant. Gentlemen turned their backs on those bags, and, a few evenings afterwards, to use the phrase of the noble lord, he "he turned his back on himself," and abandoned the proceeding which he had instituted, by voting that the measure would lead to discussions "derogatory from the dignity of the Crown, and injurious to the best interests of the empire." The public and that House had a right to know (for though they had not opened this green bag, they had learned that a report had been elsewhere founded on its contents) where the facts contained in it had been collected. He would therefore state what, perhaps, would be denominated rumours, in explanation of this question. If he were wrong, the noble lord would contradict him, and he should feel obliged to him for that contradiction, because persons were said to be connected with this transaction who had heretofore held some rank and character in this country; therefore he should be rejoiced at their exculpation. It was generally understood, that the contents of the green bag were obtained through the means of certain persons, whether sent out in a public or a private capacity he cared not. They were, it seemed, commissioned to go to Milan, and to obtain all the information they could on the subject of the queen's conduct. Common rumour did not point at ministers as the inventors of this plan; that honour was given to another person—to one who held a high judicial situation in this country—he meant the vice-chancellor of England. If wrong he should be happy to hear his statements contradicted; but it was certainly understood that this gentleman took great pains in the proceeding. He indeed was supposed to be the head or inventor of this Milan commission. In order to get at the facts, he recommended to notice a person who had practised in the same court with him long and successfully. One of his qualifications for the situation was rather extraordinary, for it appeared that he understood no language beyond

his native tongue. A second, and, he believed, a third individual, were added to the commission. He did not himself know any of the parties employed on this occasion, and God forbid he ever should. To prove that the vice-chancellor was at the head of this army of *espionnage*, it was only necessary to observe, that he himself went to Milan in 1818, and remained there till September 19th in that year. The expense attending this commission (he cared not by what name it was called—whether a secret court of judicature, or a combination of spies) had been very great indeed. It must have been well known to ministers, that those persons had been employed, because he knew that no commission would be suffered to remain in Milan without a regular correspondence having taken place with the Austrian court. From the date he had mentioned, the statements contained in the green bag must have been received by his majesty's ministers a year ago; and yet not one step had been taken on the subject until the queen landed, and set her calumniators at defiance. Let not ministers think, that the dissatisfaction out of doors on this subject was a mere idle clamour. It was, on the contrary, deep-rooted; and, from the Land's-end to the Orkneys, pervaded persons of every station and description. The question was not whether her majesty was guilty of the high crimes alleged against her, but whether she, the queen of these realms, and the first subject of England, should not experience that justice which ought not to be refused to the lowest. In the first place, gross injustice had been done to her by introducing this green bag; and in the second place, they had acted still more unjustly by her when they brought in a bill, the most palpably disgraceful that was ever known in England. He should be glad if the noble lord would set him right as to the expense of this commission, but he understood it had cost the country 33,000*l.* In the first five months of its existence no less than 11,000*l.* was drawn by these commissioners. Now he would engage for half that money to procure such witnesses in Italy as would blast the character of every man and every woman there, however respectable. Let the House consider the creatures by whom the affidavits were sworn; they were procured from the meanest, the most rascally of mankind. And, was the queen of England, on such evidence as this, to be degraded at once and without trial? He said she was degraded, because ministers had brought in a bill which now hung over her majesty's head, accusing her with such gross crimes as could not be separated from the idea of degradation. They talked of granting her justice—of giving her the best means of defending herself; but how was such an intention proved? He was sorry, even thus shortly, to have occupied the attention of the House, but a sense of what was due to public justice and to the character of the country induced him to come forward. The gallant general concluded by moving—"That an humble Address be presented to his majesty, that he will be graciously pleased to give directions, that there be laid before this House, a copy of any commission or commissions, instruction or instructions, issued by his majesty's commands, since the departure of her majesty the queen from this country in 1814, for taking depositions, or making other inquiries, relating to her majesty, during her residence abroad; together with an account of all sums of money expended in the execution of such commissions or instructions, and by whom such sums were respectively issued."

Lord *Castlereagh* felt it to be his duty, under the circumstances in which the House was at present placed, to oppose the motion. It would, he conceived, be a waste of their time, if he were led, in consequence of what had fallen from the gallant general, to enter into an explanation of the course of conduct that his majesty's ministers had been induced to take in consequence of the important subject which had recently occupied their consideration. Had the gallant general, he would ask, seen any thing in the general conduct of ministers that rendered it necessary to bring this question under discussion? Or had he perceived any part of their proceedings that appeared to justify the casting the least imputation on them, as the authors of this painful investigation? He conceived that the gallant general had not; and therefore he would simply apply himself to the motion now before the House. The objection he took to it did not arise from any indisposition on the part of ministers to give the fullest information on the subject when the proper time arrived; for, whatever might be the gallant general's opinion of ministers—whatever cause might have induced him

to imagine that they threw an improper shade of mystery over this transaction, with respect to the mode in which it was conducted, or the manner in which the charges were to be provided for—he could assure the gallant general, that there was no portion of the painful investigation with which it was connected that he would more readily, if the occasion suited, place him and the House in possession of. He believed, most sincerely, that the whole transaction, from the first to the last, would bear the light, at least as far as he had any knowledge of it. But he might be allowed to say, that the present was a very curious mode of proceeding, if it were introduced with a view to assist or elucidate the inquiry now pending before parliament. It was most extraordinary, in the very outset, before the House had adopted any measure of inquiry of their own, and without waiting for that which it was quite clear they would arrive at by another process—while they were ignorant of the whole course of evidence—that the gallant general should call on one of the parties to put the House in possession of all the means that had been adopted to gain information, and to state facts which would not in any degree render other parts of the case intelligible. It certainly was not very common in judicial proceedings to give up the means by which information had been procured. Indeed, nothing could be more subversive of the course of justice, nor was any thing ever known more contrary to the order of proceeding within the walls of parliament. It was such a line of conduct as he thought the gallant general would not, on reflection, persevere in. Feeling thus, it was not his intention to negative the motion, but to meet it with the previous question. As he had formerly stated, with respect to the conduct of foreign ministers abroad, he did not wish to wrap up the government in mystery. When the proper time came, ministers were ready to give every information, but they would be guilty of a dereliction of duty if they did so prematurely. The House could not decide whether they acted with a view to the ends of justice, or for the purpose of oppression, until all the facts were before them; then only could they judge correctly of their conduct, or of the conduct of their agents. Those facts were not before them, and therefore he contended that the motion of the gallant general was wholly premature. In this stage of the proceeding he must intreat the House to enter fully into the reasons why, in his opinion, information on this part of the subject should not be laid before them. He had no hesitation in stating, broadly and distinctly, what was the fact. The outline of the case, unconnected with the bill before the other House, was simply this:—The statements concerning the conduct of her majesty reached ministers from so many quarters, and had become so notorious (statements, let it be observed, that were not procured by any system of fishing, but which came voluntarily from various quarters, many of them of the most grave and official character), that it was deemed necessary to inquire into their truth; and, unless the gallant general laid it down as a maxim, that the servants of the Crown were obliged to shut their eyes and ears against evrey offence that threatened the welfare of the state—unless he conceived, because they must experience the most painful feelings, when charges were made against a person of such illustrious rank, that, therefore, they ought not to take the plain course of justice on such occasions, and ought not to institute any inquiry into reports of this nature;—unless the gallant general reasoned thus, there was nothing in the conduct of ministers that deserved censure. He would hereafter argue with the gallant general why the course of inquiry to which he objected was, at the time, the most proper. He admitted that that course of inquiry was not strictly official—it was not sanctioned by any proceeding that could give it the name of a commission—it was not distinguished by any of those formal instruments which were usually known to the constitution. He would state, in due time, why he considered this demi-official proceeding — a proceeding not strictly according to the forms of the constitution — was, under the view then taken, the fit and proper one to be adopted; and he would also consider the question, whether the commission had acted with severity or injustice; or had hunted for that sort of information, which, according to the gallant general, Italy was famous for—which a sum of money could buy, and by means of which the fairest character might be blackened. If the gallant general had waited for the facts of the case, instead of applying his reasoning to certain rumours, he, perhaps, would not have made his motion. The information alluded to was not drawn from Italy

alone; and although he called the persons who were sent out "the Milan commission," their inquiries were not restricted to conduct pursued in that place. Their orders were to look to every thing that could be devised, in reason, to detect and separate falsehood from truth. That was the system adopted in this case; but certainly the inquiries of the commissioners were applied to a much more extensive portion of Europe than the gallant general seemed to suppose. With respect to the characters of the persons employed, he was sure the gallant general could not mean to insinuate any thing against them. There was nothing in the character of those individuals that could lead the House to suppose that they would take any step inconsistent with British justice. At a proper moment he should be prepared to defend all their proceedings. When the facts alleged against her majesty flowed in on government with so strong a tide, when the number of charges hourly increased, and when they assumed a most grave and serious aspect, ministers felt that they had no right, intrusted as they were with a responsible authority, to let those accusations rest on the ground of rumour. They thought it was their duty, even with reference to the character and dignity of the queen herself, to take the best means to discover what degree of weight they deserved. Under the circumstances, they did not deem it a case, in the examination of which it would be wise or prudent to employ that formal commission which would place on record the statements that were to be inquired into, even though they turned out to be unfounded. They conceived it would answer the ends of justice if they were inquired into by persons of such character in their profession as would enable ministers to place confidence in their proceedings, and to give credit to their report. Certainly, it did not fall within the province of the vice-chancellor to lend himself voluntarily to such a proceeding; but he must at the same time observe, that there was nothing in the conduct of the vice-chancellor on that occasion that could in any way reflect discredit on his character. He held a high judicial situation; but, when he was called on to inquire into the matter at issue, he (lord C.) knew of no just ground which could be alleged to prevent him from informing himself of the truth or falsehood of the reports that had been circulated against the character of the illustrious individual who was then residing abroad, and afterwards stating the conviction of his mind. He was yet to learn that there was any thing in the vice-chancellor's situation that ought to preclude him from entering on an inquiry of this nature—always provided that it was pursued with truth and honour. The character of the vice-chancellor, so far from militating against the impartiality of the inquiry, afforded an additional pledge that it was a just one. He would now briefly notice the course that was taken. In the first instance, application was made to a gentleman at the bar of the chancery-court, a Mr. Cooke, for his assistance. There was no man in the country, he believed, who had the honour of his acquaintance, that did not respect him. He had seen him only once; but, if a person might judge from the propriety of his appearance, and the gravity of his manner. For his own part, he thought it would have been wrong to send a young gentleman on such a mission; although the gallant general might suppose that he would get much sooner into all the secrets of the matter than a person of more mature age. When the business was of so delicate a nature, it was, in his opinion, most proper to employ an individual of grave and thinking habits. The gallant general said, an individual was selected who knew nothing of foreign languages. This, he conceived, was a pledge that nothing more was intended, but that the individual should go to the appointed place, merely to hear the evidence as a professional man. It showed that he was not sent out to insinuate himself as a spy into those transactions, but that he was specifically sent out as a person who, when the witnesses that were to substantiate the facts came before him, was ready to take their depositions, and to take them in that form which was suitable to the practice of our jurisprudence, and surrounded with all those safeguards by which our law was characterised. It was necessary, therefore, to delay any motion of the nature of that now before the House, because, to understand the question well, the gallant general ought to see the depositions, examine their forms, and observe the safeguards by which they were surrounded. If he had seen them, he would probably feel that no censure attached to those who superintended them. Every thing was done to guard those who were examined from stating any matter on

hearsay—every thing was done to guard them against speaking unadvisedly—every thing was done that could make them dismiss from their minds the hope of receiving any emolument in consequence of their testimony; and they were informed that their characters would be examined in some competent court of law. He was convinced that no individual could be selected better adapted to fulfil the duties that were intrusted to him than this gentleman; and he was quite sure, that with respect to the necessary safeguards, no depositions had ever been more strictly drawn up. He believed that those who had seen the proceedings in this case, had viewed them with no other feeling but that of the greatest respect for those who conducted them. He hoped he had repelled the idea that any servant of his majesty had been disgraced in the discharge of his duty, because he had looked into facts which materially affected the honour and dignity of the Crown; and he had also, he trusted, repelled any insinuation that had been thrown out against Mr. Cooke, or against the eminent solicitor who accompanied him, and who had assisted in taking those depositions. As to the expenses of the commission, no disposition existed to withhold from the House all the information that was necessary, when the proper moment arrived. There would be a want of delicacy in obtruding it on the House at present; but when the proper time arrived it would not be concealed. The expenses incidental to the parties who were sent abroad must be brought before the House on the same ground that the House would be called on to defray the sum necessary for her majesty in entering on her defence. The expense attending the allegations on the one side, and the preparations for meeting them on the other, would be laid before parliament in due time. As he had before said, ministers wished for no mystery with respect to any part of this transaction. But he did protest solemnly against this mode of introducing partial motions, for it exhibited the air of a mere party proceeding much more than it did that of a real desire to forward the ends of justice. Individuals would not wait for the proper moment to argue those questions; they ran unprepared into the midst of a most important subject, and dragged it into view, not at once, but piecemeal. They did not take a plain and intelligible course, but came forward in a way the most invidious, both with respect to the proceeding itself, and with reference to private character. Would it not be better for gentlemen to restrain their feelings until they saw the whole proceeding? If, when that was done, ministers could not explain themselves to the satisfaction of the House, then would come the time for them to encounter the animadversions of gentlemen. But, at that moment, he protested against investigating a transaction of this nature. He would not consent, when a charge was brought against the queen, that it should be set aside, and that ministers should be placed on their trial, with reference to some collateral circumstances. He would not wrap himself up in mystery as to this transaction; but, at the fair and proper moment, he would give all the information in his power. In the mean time, he thought he did not ask too much of the House, when they had suspended their opinion with respect to the proceeding itself, also to suspend their opinion with respect to the conduct of ministers. He felt it necessary to make this appeal, because he was dragged into partial explanations on this subject, in consequence of the course adopted, which, he must say, was rather dictated by political feeling than by a strong regard for the principles of justice. Owing to this system, he was compelled to give garbled and broken explanation to the House, and to defend the character of individuals less fully and less forcibly than he would be enabled to do if he had an opportunity of discussing the whole question. He would not negative this motion, but he would meet it with the previous question, to show that the information should not have been called for; and he hoped it would be a warning to gentlemen on the other side, not to let their zeal get the better of their understanding, in submitting motions to the House under circumstances like the present. Let the subject rest until the whole case was brought forward; and let not the House and the country be lowered in the eyes of Europe, which they would be, if it were seen that, when a great question, important to the Crown and the empire, was agitated, they could not deal with it fairly, but must meet it by little motions of this kind, in order to get some unfair advantage over ministers, as if they were on their trial. He asked for no favour—he shrank from no responsibility. All he claimed was, that the conduct of ministers should be fairly and strictly ex-

amined, when the circumstances were before the House, when they would have an opportunity to explain themselves fully; he only protested against these repeated anticipations of explanation.

Mr. *Creevey*, notwithstanding he might incur the displeasure of the noble lord, and notwithstanding the protest and the warning the noble lord had given to the House, would maintain that the proposition of his gallant friend was a perfectly just one, and the time precisely that in which the motion ought to have been made. His gallant friend had not precipitated his motion; he had delayed it till a certain proceeding had taken place in the other House of Parliament. So anomalous a course was, perhaps, never pursued upon any former occasion. The queen of this country was criminally proceeded against; and how? By the introduction of a bill in which she was called by the most infamous and scandalous names. Neither her majesty nor that House had any information on the subject; and, under these circumstances, his gallant friend said, what he conceived to be most proper. "Let me see the foundation of this measure; if you make a charge of this nature, let me see your infernal Milan commission, or whatever commission it may be, on whose statement it is founded." It was quite a novelty, a thing hitherto unknown to the constitution of this country, for the king to authorize a commission to hunt a subject with lawyers, attornies, and spies, assisted by the emperor of Austria, through every part of Europe. This indeed was quite a novel system. It was dangerous when any responsible servant of the Crown was placed at the head of such a proceeding; it was much more dangerous when a person like Mr. Leach—he begged his pardon, he should have said sir John Leach—who was not a responsible servant of the Crown, organized a system of espionnage against any individual of this country; but it was still worse when a person, placed in the situation of that gentleman, inflamed the feelings of particular persons by stating to them things of a doubtful nature, but which were calculated strongly to excite their passions. They had a right, he contended, to have this vice-chancellor before them. He would maintain that he was a disturber of the public peace of this country. [Hear, hear! and order.] He would show how he was a disturber of the public peace. In 1814, all the unhappy differences between his majesty and the queen were supposed to be settled: an arrangement with respect to money matters took place; and one of his majesty's ministers negotiated with her for leaving the country. It was quite impossible that the noble lord opposite, or the right hon. gentleman (Mr. Canning), considering the feelings he had expressed towards the queen, could have again awakened those differences which were thought to have expired. Who then had done it? It was the vice-chancellor who had kept alive the vindictive feelings of his majesty towards the queen [Order, order.] He was not out of order: he would contend that it was the vice-chancellor who had kept alive the vindictive passions of the king against the queen. If the feeling were not vindictive, he did not know what the word "vindictive" meant. Several years ago the queen was prosecuted; she left the country: after a long absence she came back, and now she was prosecuted again. If this was not vindictive, he did not know what was. But now for the result of this commission. By the aid of his confederates—the emperor of Austria, Italian spies, English lawyers, and English money—he contrived to have this bag filled and brought over. It was clear, however, that it was not wanted: it had been in the possession of ministers of the Crown for these twelve months, and they had never made any use of it. This showed that they considered its contents as of a private nature, and not as state evidence against the queen. If they thought otherwise, why did they not prosecute her at once? Instead of doing that they negotiated with her at St. Omer's, and in this country; and it appeared on the Journals of the House, that the business was in fact a family difference. But the queen, it appeared, would not consent to the propositions made to her. That was her crime at present. Her first crime was having placed her foot on the English shore, and her next, a determination not to leave it. This vice-chancellor was again answerable to the House for his conduct on this point, because they were called on to assist in the utter subversion of the law of this country, and to adopt a completely anomalous proceeding in consequence of his conduct.. Secret evidence had been taken by a secret commission; and, after a period of twelve months had elapsed, it was laid before the

Lords, who, without any examination of witnesses, had finally adopted certain charges against the queen. A bill was then brought in for the purpose of degrading her. If this were allowed, if a bill of this nature were suffered to pass into a law, he contended that the laws of this country would be totally subverted, and no man in the kingdom would be safe. They had a right to know who the author of this measure was. That individual was answerable to the House in another point of view, perhaps as important as those he had mentioned;—he was answerable as the enemy of the sovereign; for no man could tell what situation the king might be placed in before that bill passed. Whatever ministers might state, this was a mere private charge: it was the king wanting to get rid of the queen. Ministers knew there was no crime cognizable by law, and therefore they sought to relieve him by bill. He must then appear as a private individual when he came to parliament for relief; and when he came before that House to be released from his wife, he must come, like all persons applying for relief to a court of equity, with clean hands. He owed all this to sir John Leach. When a case of that nature came before them, they ought to use the words of Jesus Christ when the woman was taken in adultery—"Let him that is without sin cast the first stone." They were told that there must be no recrimination in this case. He knew that no such word was allowed in a court of justice; but, as he had before stated, when his majesty applied to that House, he must come with clean hands. The bill declared her majesty to be guilty of adultery; and when that measure came before the House, it would be their duty to inquire whether, when the princess of Brunswick, the cousin of his majesty, came to this country to espouse him, he was not himself then living in adultery [Order, order.] Of this he was sure, that the king had been placed in his present situation by the officious adviser to whom he had alluded. He saw the proceeding with pain and regret from the beginning; and when the message came down he warned the House of the situation in which it would place the country, because he was certain that the course adopted on this occasion, that of proceeding by bill, would not only overturn the laws of the land, but would shake the steady, sober, moral habits of the people. Looking to the case in every point of view, there was, in his opinion, an absolute necessity for the production of this Milan commission, in order that they might properly know the author of these unfortunate circumstances.

The previous question was carried without a division.

King's Message—Papers relating to the Conduct of the Queen.] Lord *Castlereagh* rose, pursuant to notice, to postpone the order of the day for taking his majesty's Message into consideration. Before he proceeded to that question, he wished to make a few observations on what had fallen from the hon. gentleman who had recently addressed the House. He knew not how far the order of the House would suffer an individual to go when he was determined to transgress the bounds of decency. But certainly, in this case, the hon. member had uttered sentiments which would not be suffered where the feelings of private individuals were concerned, and which never should have been used in speaking of the character of the sovereign [Hear, hear!]. He protested solemnly, in the face of the House and of the country, against the speech which the hon. member had made that night. No individual was warranted in making such assertions—no individual at all acquainted with the fact would have applied such epithets to the feelings and the mind of the sovereign. Though placed under the most trying circumstances in which a monarch ever was or ever could be placed, his majesty had never betrayed the slightest symptom of a vindictive spirit [Hear!]. In every part of this unfortunate transaction he had evinced a feeling completely the reverse. Whatever his sense of injury might be, or whatever personal feeling might have been elicited by these transactions, his majesty had shown the most perfect forbearance with respect to every measure that ministers had adopted for the peace and safety of the country [Hear, hear!]. If they had gone on with this inquiry, it was from a sense of the justice of the cause, and in consequence of the manner in which the queen had conducted herself. A vindictive or passionate feeling had never been manifested by his majesty; and, instead of censuring his conduct, the honourable member and the country ought to offer him their heartfelt thanks for the efforts he had allowed ministers to make for the

safety and protection of the empire. He would say nothing more on this unpleasant subject. The House had marked their sense of the hon. member's conduct; and, if he possessed the feelings which a member of parliament ought to possess, the reproof which he had received on this occasion would convey a much stronger comment to his mind, on the course he had pursued, than any thing which he could utter.—His lordship then called the attention of the House to the ulterior proceedings respecting the king's message. He detailed the different circumstances that had taken place since the message was brought down, namely, the address to her majesty—the rejection of the advice which it contained—the report of the lords—and, finally, the introduction of a bill of pains and penalties. When he before postponed the order for considering his majesty's message, he had stated, that, if a proceeding took place in the other House, it was his intention to move a farther postponement. Such a proceeding had occurred, and he now wished, in consequence, to put off the order to a future day. It was necessary, he thought, that their proceeding should rather be of a suspensive than of an abandoning nature. There were several reasons for adopting this course. If, for instance, the bill did not pass the lords, in consequence of some technical informality, the subject would again come back to this House; and it was proper that inquiry should be open to them. Again, if the evidence before the lords led them to reject the measure, this House would, of course, wish to examine the information laid on their table, in order to see how far ministers could justify themselves by the evidence for bringing the measure before parliament. In either event, a postponement was necessary. His lordship then moved, "That the debate be farther adjourned until the 15th of August."

Sir *M. W. Ridley* said, it was not his intention to bring into discussion the delicate points connected with this question. He did not view this as a personal question, but a question to be decided as between the public and her majesty. He thought the House had acted in a judicious manner in agreeing to the resolutions which had been passed, and he regretted that those resolutions had not been attended with effect. But if he had possessed the information which ministers appeared now to have possessed, and to the extent of the charges laid against her majesty, he was by no means prepared to admit that he could have voted as he had done. Ministers would have grossly misled his majesty and the country if they had compromised charges which he certainly could never have consented to compromise. But it was not his intention to enter into an enlarged discussion upon this subject. The noble lord had said that he wished the green bag to be left in a suspensive, and not a conclusive, state. But he was desirous that it should be put into a conclusive state, and he should now give his reasons. The whole question now assumed a very different aspect; they had now the report of their committee, stating that a legislative measure was instituted in the other House. If then, while her majesty stood arraigned at the bar of the public, they kept a second inquisition suspended over her, did they intend to institute a second inquisition. If her majesty should be acquitted of the charges against her in the other House, would proceedings be again instituted in this House by the green bag? According to the analogy of grand jury this would be inadmissible. If they failed in proving the preamble of the bill in the other House, was not the queen to have the benefit of a full acquittal? The noble lord had said that there might not have been sufficient evidence before the lords. If there was not, did the noble lord say that they were to institute proceedings in that House? The noble lord had assigned as a reason for keeping the green bag in a suspensive state, that the House might have whatwithal to bring against ministers, if their conduct should come to be inquired into. He should be sorry to see the noble lord in that situation, although he certainly thought that fitter men might occupy the places of the noble lord and his friends. But it was not out of the green bag that evidence was to be brought forward against ministers, but from the conduct and means by which the green bag was made up and managed. If the question were to become a lapsed order, and no proceeding should be founded upon it, he was not prepared to say that he should oppose a motion to that effect; but as the House might be sitting on the 15th of August, he should move an amendment, that the order be discharged.

Lord *Castlereagh* explained. If the measure now instituted failed in the lords, there was no idea of founding criminal proceedings in that House. He had only

said, that the green bag would show to the House whether ministers had had evidence for introducing proceedings respecting her majesty.

Mr. *Bennet* began by expressing his surprise that none of his majesty's ministers had attempted to answer his hon. friend, (Mr. Creevey); for though some unguarded expressions might have fallen from him, yet many of his observations had been much to the purpose, and would have a stinging effect out of doors. Ministers were bound to stand up and to justify their master. The noble lord had said, in express terms, that the king of England had lent himself to an accommodation respecting indecency and adultery. No sovereign had ever been so publicly degraded. He did not believe that ministers themselves had ever believed the charges in the green bag, because, if they had believed them, they could not have given such advice as had been given. The queen of England, charged with adultery, was not only to be addressed by both Houses of Parliament, but she was to be acknowledged in certain courts near which she might choose to reside. The right hon. gentleman (Mr. Canning), after seeing all the charges in the green bag, had in a most manly speech, a speech which did him the greatest credit, professed his respect and his affection for her majesty. The right hon. gentleman, after having seen the charge, had used the remarkable expressions, that his attention, affection, and respect, remained the same as they had been. He could therefore produce the right hon. gentleman as an authority opposed to his colleagues, for he at least dissented. If, in the opinion of the other ministers, she was black with guilt, in the right hon. gentleman's opinion she was white as snow. What was the feeling of the country upon this subject at the present moment? From every part one sentiment (whether just or not, he knew not) of respect for her majesty, and of conviction that she was innocent, was heard. This was the natural result of the mode of proceeding adopted against her majesty. The noble lord had come down to that House and proposed the most hateful of measures—a green bag, to be investigated by a secret committee; and had, in some degree, explained how it was to be composed. The queen's legal advisers were to be excluded; of course the attorney and solicitor-general must also have been excluded. The committee, then, must have been formed (yet ministers talked of avoiding all party distinctions on this occasion!) out of the adherents and friends of the noble lord, out of what he would call a sort of country gentlemen of the court. Some might have been from his side of the House, but they would have been those whom the noble lord had known on former occasions to lend a willing ear to the stories of his majesty's government. But even they, he believed, would rather have followed the right hon. gentleman's example; they would have refused to have become her majesty's accusers. But ministers were determined to have a verdict against her, if not in one way, in some other way. They had therefore got a jury to try her, who would have found her guilty, if she had been as Cæsar's wife ought to be, even above suspicion. A committee was formed of which four cabinet ministers were members, and one of them, the Nestor of the administration and the keeper of the king's conscience. The keeper of the king's conscience had been member of this committee, as the vice-keeper of the king's conscience had been member of the Milan commission. Did it require any second sight to know what the result of such an inquiry would be? Did not every man in the streets foresee the result? The queen of England was now charged as another queen of England had formerly been charged. The just and pathetic language of queen Anne Boleyn was—"Try me, but let me have a lawful trial, and let not my sworn enemies sit as my accusers and judges? yea, let me receive an open trial, for my truth shall fear no open shame." The same language was now used by her majesty. "Try me (she said), but let not my accusers and enemies be my judges; let me have an open trial, and I shall prove my innocence; let not the lord chancellor, the keeper of the king's conscience, and three other cabinet ministers, sit in secret judgment upon me." If they were not her majesty's accusers, who were her accusers? Who were the advisers of the measures adopted against her. The secret committee had been compared to a grand jury. But it was a strange anomaly to find the accusers forming part of the grand jury; and stranger still to find them afterwards form part of the petty jury who were to sit in judgment and pronounce a verdict upon the charges. It was a course of proceedings like this that affected the people of England; this it was that caused the cry

that was universally raised for the queen, and against her persecutors, who had put her under the ban of excommunication throughout Europe. This course of persecution it was that raised an angry feeling throughout the country. The people never would have interfered when the administration of justice was fair and equal; but a foul administration of justice roused the deepest indignation. He cautioned ministers, because no man could see the end; the boldest might shudder at the consequences. It was not against a fair trial that any feelings were entertained, but against proceedings to get a verdict. The noble lord had thought proper to talk of the tone in which he had expressed his indignation at the terms offered to her majesty in St. Omer's. In the persuasion that the steps taken were a departure from public justice, had he expressed his indignation, and every honest man in the country had felt the same indignation. He, indeed, was probably disqualified from taking a fair view of the subject, because he had not been an accuser. But whenever the question came before that House, if unhappily it should ever come, no man would bring less of party feeling into its consideration. Justice in favour of a helpless and desolate woman was called party. Ample illustration of the feelings of party had been given on the other side. Every man in the country was satisfied whether party feelings operated on this question, and where party feelings prevailed. He at least would do his duty as stoutly as any member, in order to right the injured, and to defeat persecution. The illustrious person who was now queen of England had been persecuted ever since she first landed on their shore. She had not been a week in England (he was old enough to remember that period), when she began to be persecuted. Her person, her manners, her gaiety, were misrepresented and slandered. He would remind the noble lord, the right hon. gentleman, and an equity lawyer elsewhere, of the part they took in former stages of her history. She had been seduced—seduced, he believed, against her better judgment, certainly against the strongest advice of Mr. Whitbread, the most honest man then in England—to go out of this country. The authors of that step might have been rewarded: he would not look into the black and dark intrigues. A manuscript was in the hands of his hon. and learned friend (Mr. Brougham), containing, in the strongest terms, the advice of Mr. Whitbread and the member for Winchelsea, not to quit the shelter of her home, or leave the society and security to be found only among her friends. They had anticipated the consequences of her going abroad; they had anticipated the spies, the attornies, and the vice-chancellors that would pursue her; they had anticipated the plots by which she would be assailed; they had anticipated the consequences that would arise from her frankness and gaiety of temper; for, 'like Anne Boleyn, her lively and gay manners afforded food for calumny. They had known and stated this before her majesty had left the country; but, unhappily, the advice given by the right hon. gentleman opposite, the very worst that could be given, prevailed, though he did not accuse the right hon. gentleman: indeed he believed him incapable of giving advice with so base an intention. And who was the opponent of this illustrious and much injured lady? The king was her opponent; he who was, not absolute master of their lives and property, but the grand source of distinction and honour, and often of property; who had a direct and positive influence where her majesty was to be tried; who held the means of reward, titles, orders, and ribbons.'

'Lord *Castlereagh* rose to order.' He really must submit to the House whether it was decent or parliamentary to impute to the king acts which could only be considered as done by his servants.

The *Speaker* said, he felt this to be a very difficult question. It was evident it was impossible on this occasion to exclude what was excluded on every other occasion. But where the introduction was neccessary, still greater caution ought to be used. It was highly improper to impute direct influence to the king in either House of Parliament, but he was aware that the same thing could be conveyed by putting it hypothetically. He did not suppose that any thing of that kind was intended; but in the warmth of debate, when any thing of that nature might be inadvertently introduced, the hon. member would see in what situation he (the Speaker) and the House were, if he did not use greater caution and restraint than on any other occasion, and carefully avoid whatever might excite strong feelings on this head.

Mr. *Bennet* said, he had certainly wished to allude to the king *bonâ fide*, but only

in a parliamentary manner. There was obviously, on this occasion, great difficulty in separating the personal character of the king from his political character, when he was prosecutor in this country. But it was the odds of a question, where the king with all his power and influence was on one side, against a destitute and forlorn woman on the other, which roused the public to stand by her. Although other classes abstained from those respects towards her majesty which it might be found inconvenient for the courtly adherents of power and fashion to bestow, that was made up to her by her reception with the people, who, viewing her forsaken state, the manner in which she was treated, the proceedings, and the green bags, resorted to against her, conceived that the odds were indeed against her, and therefore they threw themselves into the opposite scale. In this situation he cautioned ministers how they proceeded. He did not say that the people entertained any feeling against a fair trial. But proceedings of this nature brought the names of the royal family into unfavourable and dangerous discussion. All knew well that if her majesty's daughter were now alive—if the late king were alive, and in the vigour of his faculties, proceedings like the present could not have been attempted. The king, though dead, had left the testimony of his opinion how she had been treated. The late king had left a document containing his opinion of the manner in which she had been treated, and the provocations she had received. Although provocation could be no justification of foul conduct, yet he could not see why the Crown should be exempted from the general law which required that the party who applied for divorce should come into court with clean hands. The caution he gave the noble lord was this, not to provoke discussions respecting the royal family, and affecting the institutions of the country, and the credit of the monarchy—discussions which they who lived longest might rue while they lived. It was the saying of an able and eloquent statesman, Mr. Burke, that "formerly situations supported persons, now persons supported situations." He cautioned the noble lord, therefore, not to throw the country into a state of confusion and discord, which the boldest could not contemplate without terror.

Mr. *Tierney* said, he had, on the last time on which he had occasion to speak of this subject, stated the great pain and sorrow which the whole proceeding gave him. This most delicate and difficult question was now canvassed and agitated in every part of England. Much more was he now therefore affected with pain and sorrow when all he heard, and all he saw, from day to day, was calculated to to increase the difficulty and distress in which the subject was originally involved. He always felt great regret when he could not cordially co-operate with his friends around him; but, party-man as he was, and as he always would avow himself, he never would shrink from stating his real personal opinion [Loud cheers from the ministerial side]. With respect to his hon. and gallant friend no reproach could be thrown upon the manner in which he had brought forward his motion. His hon. and gallant friend had exercised his judgment and discretion in the manner he ought to have done. But the motion itself he was no party to, and though it was unnecessary now to declare it, he thought it right to say, that, if the motion had come to a vote, he would not have supported it. He felt so upon that motion, because it appeared to him to be an intermeddling with matters not fairly coming under their consideration, and liable to great misconception. From this day he must act judicially, and consider the subject in no other way. He rejoiced in the different situation of the House now from that in which it had been formerly placed. They now knew that formal proceedings were entered upon the Journals of the House of Lords—what proceedings they were not to know, because the report of their committee had not stated, but simply informed the House, that a bill, whose title was to take certain privileges from the queen, was introduced. He must presume that those who introduced the bill had ground enough for doing so. But it would be time enough to speak of that when it came before that House, if, unhappily, it should ever come into that House. At present, he should keep his mind clear and unbiassed, and preserve a painful suspense upon the subject, until he should be called upon to say what he thought. God knew how distressing it was to hear daily discussions on this painful subject, and how difficult it was to preserve an even and impartial judgment; but he trusted that every man would do his duty to the king, to the accusers (for parliament itself was accu-

ser) and to the accused. Her majesty should have in him a firm and strenuous friend of truth and justice; he should hear with equal attention all that should be urged against her and in her favour. This evening was not the moment for giving any opinion; but when the question came before them, whatever might be the event, he would do his duty, without fear, favour, or affection; without regarding popular clamour on the one hand, or court influence on the other. He had only one word more to say, before he sat down, respecting the mode of disposing of the green bag. There appeared to him to be little difference between the motion and the amendment, but he preferred his hon. friend's amendment as the more manly way of getting rid of the green bag. They agreed, whether wisely or not, that the lords should take precedence in this proceeding; but all the while they preserved the green bag in the midst of them. They still had the green bag; whether it was six weeks or six months, still they would have the green bag; the green bag they could not get removed without a specific motion. All agreed now, that whatever should be the event of proceedings elsewhere, no fresh charges were to be got out of the green bag. He was happy to hear that declaration from the noble lord, because apprehensions had been entertained by many, that the green bag was reserved for farther proceedings if necessary. He hoped he had made himself understood; the course he had stated he should abide by, and all he required of every individual was, to keep his mind in the same state of suspense and impartiality.

Mr. *Williams Wynn*, said, that, on the immediate subject of debate now before the House he was inclined to agree with Mr. Tierney, and though it was of little importance which way it was disposed of, he thought that on the whole it would be better to drop the motion for resuming the debate than to adjourn it to a future day. That debate was on the proposition for referring the papers contained in the green bag to a secret committee; but whatever course it might be expedient hereafter to adopt, it was clear that the appointment of a secret committee would be absurd, after all the matter to be examined, had been made public by the proceedings in the other House. With respect to the proceedings themselves on this momentous and perilous question, he had already stated his reasons for regretting that a course so disrespectful to the Crown should be pursued as to pass over in absolute silence a communication upon a subject so essentially affecting its dignity. It appeared only that the House, after solemnly pledging itself to take the matter into its most serious and immediate consideration, had repeatedly adjourned its investigation, and at length dropped it altogether. Perhaps this breach of the pledge already given, and apparent neglect of the royal message might in great measure be avoided, if either a second message were brought down recommending that no further step should be taken by the House of Commons, or if an address were to be presented stating that in consequence of the proceedings already instituted in the other House of Parliament, the Commons thought it inexpedient to proceed in the inquiry.—The real cause of all this difficulty was, that his majesty's ministers had not originally decided what course of investigation they should propose to parliament. Two modes of proceeding were open to them, one criminal by impeachment, in which case the communication should have been made to the House of Commons alone, the other remedial by divorce, a bill for which might properly originate with the House of Peers. It had, he understood, been elsewhere stated, that the first of these was impracticable, for that the facts alleged against her majesty having been committed abroad and with an alien, could not be made the subject of an impeachment, inasmuch as impeachable and indictable were convertible terms. This doctrine he felt it his duty to deny, however high and respectable the authority might be from which it had originated. He protested against it as tending, in many instances, to render nugatory the great safeguard of the constitution, the trial by impeachment. It did indeed appear inconceivable how any man, even in the slightest degree conversant with parliamentary history, could assert that no offence could be the subject of impeachment, which was not also cognizable by indictment. The direct reverse was apparent, from almost every impeachment for high crimes and misdemeanors. The sale of Dunkirk, the signature of the Partition Treaty and of the Peace of Utrecht, had successively been the subjects of impeachments, and yet it was obvious that these were offences of which no inferior court could take cogni-

zance. If even the impeachment of Mr. Hastings, commenced and prosecuted within our own days, was adverted to, the maintainers of this opinion would find it difficult to argue, that the charges preferred against him could have been turned into an indictment, and that the grand jury at Hicks's Hall could have presented the injustice and impolicy of the Mahratta war.—In opposition to these new-fangled doctrines, and attempts to confine the jurisdiction of the supreme tribunal of the land, the high court of parliament, within the contracted and local limits of the courts of Westminster Hall, he was ready to contend, that any offence affecting the safety of the country or the honour of the Crown, wherever it might be committed by any British subject, was cognizable by the high court of Parliament. The true principle of the constitution was, that those injuries which, if directed against an individual would be the subject of a civil action for damages, if committed against the public were criminal and triable as misdemeanors. Of this nature evidently was the crime of adultery in the consort of the sovereign, whether committed at home or abroad, with a British subject or an alien. It was true, that in most of the writers upon law, that offence was described as high treason. —It had generally been stated that the word "*violer*" in the statute of Edward 3rd was to be understood as extending to a criminal connection with her consent as well as without. This, however, would be a question not of law but etymology, and the more it was examined the more difficult would it be found to maintain, that force was not essential to constitute this offence, whether the French word used in the statute were considered or the Latin one from which it was derived. Upon this argument it was at present unnecessary to dilate, but he apprehended that even if the sense of the word was more doubtful than he thought it, no court could be found which, on the authority of the single decided case of Anne Boleyn (if that could be called a case in point which was very doubtful) would construe an ambiguous expression, in a statute so highly penal, against the person accused. Upon these grounds, as well as upon others which he would not detain the House by stating, he had himself no doubt, that if the charges brought against her majesty could be substantiated, they would warrant an impeachment against her for high crimes and misdemeanors; and he was therefore disposed to oppose any proceeding by bill of pains and penalties—a proceeding always highly objectionable, and which nothing could in any degree apologize for but an absolute impossibility of adopting a more regular course. In every former instance some reason had been alleged why an impeachment could not have been preferred. In lord Clarendon's case, he was considered as having withdrawn himself from justice by quitting the country. In sir John Fenwick's a witness had been suborned to abscond, and in those of Atterbury and Kelly a principal witness had died; but there was no instance of a bill of pains and penalties where the person accused was ready to meet the charge, and where it was not even alleged that there was a single witness wanted to support it who was not forthcoming. The bill now pending in the House of Lords had been called a bill of pains and penalties, but it appeared to him that it was not more so than any other bill of divorce; and it was for this reason that he was enabled to acquiesce in it so far as to suspend all proceedings in the House of Commons. The clause for degrading her majesty was the necessary consequence of the dissolution of her marriage. It was true, that it deprived her of her rank and privileges, but so did any ordinary divorce bill in the case of a peeress. In neither case was punishment the object, though it was the necessary consequence. In one respect certainly the present did most essentially differ from a common divorce bill. Both were remedial measures, but in other bills the remedy was to be afforded to the husband alone. Here, if the case were made out, it was due to the public, whose interests were deeply concerned, that a person against whom such charges could be substantiated, should no longer hold that high and exalted situation which afforded so much opportunity to influence the morals and manners of the country.—He had heard with deep regret the argument or rather declamation of an hon. friend (Mr. Bennet) against the propriety of bringing this case before the other House of Parliament, because the peers were bound either by gratitude or by expectation to the Crown. If this argument were good for any thing, it would equally militate against the House of Peers retaining any of the functions, which the constitution entrusted to it. If the lords really were so much the creatures and tools of the

Crown, as to be unfit to be trusted with the decision of this case, they were equally unfit to try any impeachment for high treason, or to deliberate on any bill by which the patronage, the prerogatives, or the interests of the Crown might be supposed to be affected. It was impossible thus to depreciate one of the essential members of the constitution without degrading and injuring the whole.

Mr. *Keck* said, that he had been more pleased with the observations of Mr. Tierney, than with any speech which he had heard upon the very distressing subject before the House. Whenever the main question might be brought forward, he should feel it his duty to dismiss even the remembrance of general imputation from his mind. He should look for proof, and for proof only; and nothing short of the most damning proof should induce him to give credit to the stories which were in circulation.

Lord *Castlereagh* said, that as the House was not in a situation to see its way as to the whole extent of the proceedings, he had thought it more convenient to postpone the order to the 15th August, than to discharge it altogether, or to move an address to the Crown. He should be extremely sorry, however, that there should be any difference of opinion in the House upon a mere matter of form.

After a few words from Mr. Tierney, lord Castlereagh consented that the order should be discharged.

EXCESS OF SPIRITS BILL.] The House having resolved itself into a Committee on these acts,

The *Chancellor of the Exchequer* observed, that from the time of the Union, Irish spirits had been imported into this country without any obstruction in the state in which they were manufactured, but that in the acts under consideration, a clause was introduced, imposing a prohibition of the import of any raw spirits into this country, unless received into the stock of a rectifier. By this clause it was complained, that the Irish distillers were subjected to a very great grievance, and upon that representation being made to his majesty's government, the case had been fully considered. The result of that consideration was a conviction, that in common justice, the clause ought to be repealed. He moved that the chairman be directed to move for leave to bring in the bill for the repeal of the said clause.

Mr. *Bright* said, that if the facility for the import of Irish spirits were afforded, which the proposition was calculated to produce, it would be impossible to prevent that part of the English coast with which he was immediately connected, as well as the coast of North Wales, from being deluged with that article. He maintained, that the clause referred to did not involve any violation of the act of Union; as a fair review of the system of the countervailing duties would fully manifest. The fact was, that the Irish spirit generally imported into this country required rectification before it was fit for use, and therefore it was no grievance to let the clause stand as it did. At least it was no grievance to the people of England, who might be disposed to consume such spirits. But he begged the House to consider the consequences likely to follow from making such ardent spirits cheap in this country.

Mr. *M. Fitzgerald* was surprised how such a clause as that to which the motion referred happened to be smuggled into the act before the committee. This clause was evidently devised to interfere with the free and fair trade of Ireland, and to prevent the Irish distillers from coming into competition with those of Ireland. That it was cunningly contrived with that view, there could be no doubt. While he bore testimony to the candour of the chancellor of the Exchequer towards Ireland on this occasion, he begged to differ from him as to his construction of the act of Union. Spirits formed a distinct manufacture in Ireland, and were as free from the regulation of the English excise as its linen manufacture. The spirits distilled in Ireland were recognised by several laws of the legislature of that country, previous to the Union, as a distinct manufacture, and the principle of these laws ought to be respected by the imperial parliament. It was not any reason for placing Irish spirits under the control of the English excise, that they were of greater strength than the spirits distilled in this country. But as the terms of the clause referred to in the motion mentioned raw spirits he was prepared to argue, that it did not correctly speaking, extend to Irish spirits. For the Irish spirits, as he was enabled to show, was not a raw, but a complete spirit. It was indeed, much more a complete spirit than rum, and yet the produce of the colonies was treated with more liberality than the spirits of Ireland, for it was not required that the for-

mer should be put into the hands of the British rectifiers. Upon what ground, then, should that measure of liberality be refused to Ireland, which was granted to the British colonists and to the traders of France? Upon what pretence should the English board of excise demand that Irish spirits should be subjected to British rectifiers, in order to have it mixed with deleterious articles, and denominated rum or brandy, before it was brought to sale? Such a system was quite absurd, and calculated to injure the character, because it must serve to spoil the quality of the Irish spirit. Thus, indeed, it was, that Irish spirit lost its favour with those in this country, who would otherwise be delighted with that article. The fact was, that through the preposterous system of the English board of excise, the Irish spirit was not brought to sale in England until it was actually spoiled. For himself, he had no connection whatever with the Irish distilleries; he took up this question entirely upon public grounds, knowing that a large capital was embarked in the business of distillation in Ireland—that this capital gave employment to a great deal of industry, and that it was most materially advantageous to the agriculture of his country. It was clear that the English board sought to break down the Irish distillation of spirits, as far as that could be done, by excluding that article from the British ports, or destroying its character after it was imported. Yet it was pretended that the English distillers were not jealous of the Irish. But how did the liberality of the English distillers appear? Why, the proposed motion was scarcely made known, when a petition was laid upon the table from the English rectifiers, decidedly against it. But he trusted that parliament would not be influenced by the narrow, illiberal views of any set of men, and above all, that it would never sanction a positive act of injustice, by injuring the trade of Ireland, and violating that solemn compact, the Union.

Mr. *W. Dundas* expressed his concurrence in the motion; but he could not help requesting his right hon. friend to remember that he was chancellor of the Exchequer for Scotland as well as for Ireland, and to reflect that if the Irish distilleries were allowed the free import of their spirits into England, it was but common justice that the same privilege should be granted to the poor distiller of Scotland.

Mr. *Marryat* said, it was impossible, if fairly manufactured, that either Scotch or Irish spirits could find a market in this country, yet a large quantity did find its way here, and every gallon which was imported turned out of consumption a gallon of English spirits, paying a higher duty. This might be claimed as an indulgence; for the act of Union did not give it; the Irish spirit came here now only because it paid a lower duty than the English distiller had to pay on his manufacture; and yet they came and asked for a further exemption; they now wished their spirits not to pass through the hands of the rectifiers, which regulation was most necessary for the protection of the revenue. The consequence would be, if the resolution was carried, that the market would be entirely supplied by illicit distillation. He was the more surprised at this measure being now introduced, as a neighbour of his (a distiller) had informed him, he had seen a letter from the chancellor of the Exchequer which disclaimed any such intention. If the measure passed into a law, the English distillers would certainly be entitled to claim an indemnity, as their business would be destroyed.

The *Chancellor of the Exchequer* said, that the board of excise had suggested to him that this measure might affect the security of the revenue; but he was bound not to let any consideration of revenue interfere with the due execution of the act of Union, and if any of the clauses of that act were of doubtful meaning, the House was equally bound, in justice and liberality, to explain them in the sense most favourable to Ireland.

Sir *J. Newport* deprecated the language of an hon. member, in so loosely casting an imputation upon the conduct of the Irish and Scotch distillers. The hon. member had not a particle of evidence to sustain the charge, that the spirit of Ireland was not as fairly manufactured as that of England. But the fact was, that the Irish spirit was of a much superior manufacture, or it would not have had so much sale in competition with the spirit manufactured in England. The Irish distillery was under the special protection of the Union. But such was the superior quality of Irish spirit, that a great quantity of it was imported into this country before the Union, as might be seen upon reference especially to the imports of 1797. The import of this article had, however, considerably increased since the Union, and nothing could prevent that increase, if

the Irish spirits were not deteriorated by the interposition of jealous manufacturers. Let the spirit be sold in the state in which it was originally manufactured, and there could be no doubt of an increasing demand for it in England [Hear!]. Ireland felt a great interest in the success of its distilleries, and whatever it gained from that source, could never be regarded as a gain at the expense of England; as every wise statesman must feel that the gain of any part of the united kingdom was the gain of the whole, as the strength of any part contributed to the strength of the empire at large.

Lord *Castlereagh* said, that previous to the Union this subject had come under Mr. Pitt's consideration, and he had received several representations, stating that the effect of it would be, that a large portion of the trade and capital of the distilleries would be transferred from England to Ireland. He replied, as a statesman of enlightened views ought, that it was a matter of indifference to him to what part of the empire the capital was transferred. On that principle, the union was framed, and he thought they had no right to consult the question of revenue at the expense of the first principles of the Union.

Mr. *W. Smith* acknowledged, that Ireland was a country to which England owed a debt of fearful magnitude for many ages of misgovernment, but this he thought was a bad mode of payment. He could not agree, that because some of the manufactures of Ireland had been destroyed, we were therefore to destroy some of the manufactures of England also. His hon. friend, whom he was glad to see in his place (Mr. J. Foster) had often contended, that the House had no right to interfere with the internal regulations of Ireland; he should like to know if that principle were now to be maintained. He strongly objected to the late period of the session at which this matter was brought on; and he also thought that as the excise had found sufficient reason for the mention of the obnoxious clause, the House ought to be acquainted with those reasons, now that it was about to be rescinded. It was not correct to speak of the rectifiers as the rivals of the Irish distillery; it would have been more consistent so to denominate the malt distillers, and on their behalf he must protest against this measure, except as an experiment. They had no objection to the importation of Irish spirits, if they were put on the same footing, but they could not contend against high duties and wide consciences. He thought if a manufacture was to be set up, it was indifferent to the statesman where; but where a manufacture was already established, flourishing, and paying a large revenue to the government, it was neither prudent nor just to put all that to risk for the sake of something which might be carried on more advantageously in another part of the country.

Mr. *John Foster*, as he had been called upon in so pointed a manner, would only observe, that he had not said what the hon. member had imputed to him, and he would tell him why it was impossible he should have said so. At that time the English parliament was the parliament of Ireland, and he never could have been guilty of the absurdity of asserting, that they could not legislate for the whole of the empire. He put it to the hon. gentleman whether he could consider it as the part of a good member of parliament to be setting the manufacturers of one part of the country against those of another part, as if they had separate interests. He hoped never to see a national question so treated again.

Leave was given to bring in the bill.

LOTTERY BILL.] The *Chancellor of the Exchequer*, in moving the order of the day for the third reading of the Lottery bill, said, that in consequence of the communications which had taken place between an hon. friend of his and the hon. member for Aberdeen, he had consented to withdraw what were considered the objectionable clauses in the bill.

Mr. *Hume* expressed his satisfaction at the decision of the right hon. gentleman and pointed out some passages in the 33d and 38th clauses of the bill, which also required amendment. He also protested against the use of black letter in bills, which sometimes rendered it extremely difficult to ascertain their precise contents. In consequence of its having been alleged that the secretary of the lottery had some share in the contract, and might therefore favour one lottery office keeper or another, he wished to bring up two clauses, prohibiting the secretary, or any of the commissioners, from having any interest, direct or indirect, with the contract for the lottery.

The *Chancellor of the Exchequer* observed, that such an enactment would be wholly unnecessary. The secretary was

an annual appointment, under the control of the treasury, and if any misconduct were proved against him, it was their duty to remove him. He considered such control more effective than any legislative interference.

Sir *M. W. Ridley* declared it to be his opinion, that a greater fraud had never been practised on the public, than that which had taken place in the last lottery. The amount of the prizes was stated to be 130,000*l*., when, in fact, it was only 130,000*l*. stock. The whole system of lotteries consisted of fraud and trick; and the right hon. gentleman would deserve well of the country by taking the earliest possible opportunity to put an end to it.

The bill was then read a third time.

HOUSE OF COMMONS:
Friday, July 7.

POSTPONEMENT OF THE CORONATION.] Mr. *Beaumont* rose to give notice of an address to his majesty, praying that the Royal Coronation might be suspended until the termination of the proceedings now pending against her Majesty.

Lord *Castlereagh* said, that the motion of which the hon. member had just given notice, was unnecessary, because his majesty had already signified his intention, that the ceremony of the coronation shall not take place on the day originally named, nor was any other day fixed for that purpose. He wished to be distinctly understood, that the postponement of the coronation was not in consequence of any proceedings respecting her majesty.

The notice was withdrawn.

SIR WILLIAM MANNERS.] The Speaker informed the House, that the messenger dispatched to arrest sir W. Manners, and another person of the name of Jervis, had gone down to the country to execute the warrant, but failed in his endeavours. The Speaker then suggested the propriety of having the messenger examined at the bar.

The messenger, Mr. Wright, informed the House, that he set off at one on Thursday morning, and arrived at Buckminster by half past four yesterday afternoon; that he went to the house of sir W. Manners, and was informed that he was not at home, and had left Buckminster the preceding evening at six; that it was not known whither he was gone, nor when he would return; the servant said, he was steward to sir W. Manners, and he wrote the substance of his answer on the back of Mr. Speaker's warrant: that he afterwards inquired for Rd. Armston Jervis at his lodgings, and was informed that he had not slept there for two nights; that he delivered the orders for the attendance on Monday of Mr. H. Manners and W. Atter to the steward, who promised to convey the orders to them if he could.

Sir *Robert Heron* said, the House would recollect the report received on Wednesday last from the chairman of the Grantham election committee. In that report evidence was disclosed, satisfactorily showing that notice had been duly served on the individuals who refused to give their attendance. The notes of the short-hand writer had been read, and fully bore out the evidence so disclosed. He thought, therefore, that the subsequent conduct of the individuals alluded to could be regarded in no other light than as a gross violation and contempt of the authority of that House, and as an obstruction to the discharge of those duties which the House had imposed on its committee. As such, however averse he might generally be to measures of rigour, he thought that in furtherance of justice, and to provide against future obstructions of the same kind, the House was bound to animadvert severely upon it. He should therefore now move, "1. That it appears to this House, that sir W. Manners, bart. has absconded, in order to avoid being taken into custody, pursuant to an order of this House.—2. That an humble address be presented to his majesty, that he will be graciously pleased immediately to issue his Royal Proclamation, with such reward as his majesty shall think proper, for discovering, apprehending, and detaining the said sir William Manners."—Similar resolutions with regard to Mr. Jervis were put and carried.

ALIEN BILL.] On the order of the day for the second reading of this bill,

Mr. *Bernal* rose to enter his protest against the renewal of this measure. Doubtful as its policy was at any time, a strong case ought indeed to be made out, in order to show that it was expedient in the fifth or sixth year of a general peace. The first bill of this kind which parliament had ever sanctioned was the 33rd of the late king. That bill was passed in order to guard the country against the innovating principles and doctrines of the French

Revolution. The present was the first occasion on which it had been directed to provide against the machinations of foreigners with regard to their own governments. Foreigners were allowed, by all the ancient principles of our law, to settle and to acquire property in this country, and it was contrary to those principles to render them liable to be sent out of it at any time on the charge of some insidious accuser. The original principles of our law emanated from a spirit of universal toleration, and to adopt this arbitrary measure was to abandon those generous feelings which contributed so much to the glory and grandeur of our institutions. Our ancestors had acted in a very different spirit at the time when the edict of Nantes was revoked in France. It was no argument to say that a case of abuse ought to be made out; it was enough that the bill gave to government the power of committing abuse. If such a law could be justified at any time, it was in 1793, when the political horizon was overcast by the clouds of the French Revolution. He should conclude by expressing his conviction, that the measure was altogether useless and absurd, and with moving that it be read a second time that day six months.

Lord *A. Hamilton* said, he wished to know whether it was to be considered as a permanent part of the system of laws of the country? It had been continued from year to year, almost as a matter of course, advantage being taken of the comparative indifference with which the House looked at what professed to be a temporary measure. In the same manner the act for the seizure of arms in Ireland had been continued for ten years by five distinct renewals. This Alien law also had been now continued five or six years since the peace, and was to be continued for two years longer, at the end of which time it was likelyto be just as necessary as as it was now, for not a single argument had been now adduced in favour of it.

Colonel *Davies* said, it was now, as had been observed by his hon. friend, about twenty-seven years since parliament had first been asked for an extension of those powers that had been previously deemed sufficient for the welfare of the country and the safety of the constitution. When this odious measure was first heard of within the walls of that House, France was in a state of actual revolution—its monarch dethroned—its religion abjured, and its agents in a state of successful activity in every part of Europe. The situation of Europe was now wholly changed; but new reasons were adduced for introducing this bill, and ministers went on, from statement to statement, endeavouring to throw a veil over its deformity. What the noble lord said a few evenings ago, about the existence of revolutionary sentiments in the country, which rendered the bill necessary, was stated in mere mockery, to see how far he could move the feelings of the House. Was a time like the present, when foreign powers, instead of allowing revolutionary doctrines to prevail, did every thing to repress the growth of rational freedom, the time to fear the introduction of a revolutionary spirit from abroad? Those powers were very free with promises of liberality; but their practice did not accord with their promises. Why, therefore, should ministers dread an influx of revolutionary opinions? When there was a large standing army in the country—when additional forces had been embodied—when measures were taken more befitting a period of war than of peace—was it at such a time, reasonable to apprehend danger from the influx of individuals from foreign states? He conceived it would be more reasonable if foreign states dreaded the influx of British subjects. Such a measure as this was not resorted to even in perilous times, when a Pretender sought to obtain the Crown, and a rebellion was raging in the country. The measure was contrary to the principles on which the constitution was founded, to the law of nations, and to the law of nature; and, therefore, ought not to be tolerated. The law of nations admitted one state to assist and protect another, as far as was consistent with the public safety; but against this principle the bill evidently operated. It was argued that the Crown possessed the prerogative of sending foreigners out of the country—a doctrine which he was much inclined to doubt. A great law authority (Mr. Justice Blackstone) had been quoted in support of it; but on that point it appeared he had fallen into an error. As had been said by an hon. member on a former night, though the whole legal armoury had been ransacked, yet but one rusty precedent had been found to be wielded in support of the measure, and that happened to be a bad one. Ministers said, that this bill only gave a greater facility to the working of a prerogative which

existed at present. In answer to this he would ask, if such a power did exist in the Crown, where was the necessity for a formal alien bill? The measure being, in every point of view, constitutional and political, most objectionable, he could not reconcile it to his duty if he did not vote against it.

The Hon. *J. W. Ward* said, that though it was unpleasant to continue a debate in which no arguments had been offered but on one side, the bill was, in his opinion, so discreditable to the ministers, so discreditable to the House, and so discreditable to the country, that he could not help saying a few words against it; and the more so, because he thought it was only by the earnestness, zeal, and perseverance of the opposition to it, that the country could ever be delivered from this measure, and that they had thus far to congratulate themselves, that it was on account of that opposition that they had not a perpetual instead of a two years Alien bill. It was a bill to deprive foreigners of that degree of favour, protection and countenance which they enjoyed in this country, he would not say in ancient times, for that might admit of dispute, but without question in that time of our history to which every man looked back with most satisfaction, and which might be most conveniently taken as an example. He really could not understand after all that had been said on the subject, on what reasons were offered to them, this bill, which might affect the interests, and which affected so directly the character of the country. Was it for the protection of our own government, or was it for the protection of foreign governments? When it was last proposed to them, four years ago, they were told that Europe was still over-run with Jacobins, some Republicans, some Napoleonists, all michievous in the extreme; they were told to look at the Netherlands, where, till an Alien bill had been introduced, the work of sedition had been carried on by wholesale, by these pestilent enemies of all established authority. After that, what had happened? In that very year, many of those exiles were recalled to France; and, in the next year, the king of France, the head of that government which we were professing to protect by that bill, said his wish was, to forgive and forget, and suffered almost all the others of these exiles to return to their country. The consequence was, that the Netherlands were immediately cleared of those formidable persons. If machinations were to be practised against France, it was not in the Netherlands, it was not in this country, it was not under the protection of foreign powers, that they would be carried on—no, it would be in France itself—in the electoral colleges, and even in the chamber of deputies. The bill was intended to prevent Jacobins from coming here—to keep away those who did not want to come here—to discourage the visits of persons who could do their business much better in their own country; so that, if the bill operated at all, its penalties must fall on those who ought to be protected—on merchants, traders, and all those who came here to transact business. He was no alarmist, but he confessed he saw much in the state of the country to create some degree of apprehension. What! did he, on that account, entertain a dread of foreign Jacobins? No such thing. That was the commodity they had the least reason to fear. He would as soon expect a competition in their cotton and hardware manufactures as a competition in Jacobinism. Unfortunately, our own home-manufacture was in too flourishing a state—it wanted no assistance from abroad. Let a cargo of foreign Jacobins be imported, and they would be found to stand no chance with those which our native soil produced. Those who were formed in this country were more sturdy, more inveterate, more violent, than those who were manufactured abroad [Hear, and a laugh!]. They had so much good old English stuff about them, that no foreign Jacobins could stand in competition with them. No country in the world had so strong a dislike to the interference of foreigners in its internal concerns as England. This was exemplified by our history. Great changes had been made in the government of the country at different periods, but foreigners were not permitted to assist. When the English rebelled against their king, and murdered him, it was without the aid of foreigners: when they recalled his son, it was without the aid of foreigners; and when they dismissed his other son, still it was without the aid of foreigners. Our ancestors indeed displayed a sort of over-anxiety to get rid of foreigners when their assistance was offered in aid of any political design. If he were cursed with a disposition to effect any great change in the constitution of this country, he would not accept of the assistance of foreigners.

He would say to them—"I know you wish to lend us your friendly aid to dethrone the king, to put down the clergy, and to root out the aristocracy; but such is the perverse disposition of the people of this country, that the very best designs will be rendered abortive, will be disgraced, and contaminated, by your participation in them." No gentleman, for the last few months, could go through the streets without hearing the point mooted, whether particular facts could be believed on foreign evidence. Now, when the question was discussed, whether foreigners were to be believed on their oaths, it did appear to him that the place where such a question could be mooted was held had very little to fear from their influence [Hear, hear!]. The fact was, there was no danger of foreign influence where the higher classes were true to their allegiance. The higher classes, from their opportunities of intercourse with other nations, had their animosities rubbed down, but the lower classes, and the classes between the higher and the lower, were those which retained national prejudices in all their strength and sharpness. This country was, more than any other nation, separated from its neighbours by those prejudices; and accordingly amongst us, connexion with foreign enemies had always been an aristocratical offence. In the reigns of queen Elizabeth and James, the persons who leagued themselves with foreigners were nobles, and men of fortune; in the time of the Jacobite conspiracies, the persons concerned were all of a certain rank. But what was the character of the dissensions which now afflicted this country? They might be characterised as disputes between the higher and the lower orders. During the last few months the country had been harassed by plots and conspiracies, compared with the object of which any ordinary change in government, any change in religion that had ever, at any former time, been contemplated, such as a change from Catholic to Protestant, or from Episcopalian to Dissenting, was trifling. A destruction of all religion and all government had been aimed at, the most pernicious ends had been pursued by the foulest means—revolution through murder and assassination. But no foreign interference could be traced; yet they had now a bill proposed as if the provisional committee at Glasgow were Spanish Liberals, the Insurgents in Yorkshire German Students, or the conspirators in Cato-street so many Napoleonists. Such a measure was not resorted to in times when more peril was expected from abroad, when not a foreigner came to this country that might not be supposed to carry the Pretender's commission in his pocket. The bill was a paltry measure—paltry, because it was founded on false assumptions—paltry because it was contrary to the generous feelings of the country—paltry, because it affected those who had not an opportunity of complaining. But it was said, that a sort of popularity attached to the measure; if it were so, that argument made against the bill. Surely it was not because the people were averse to foreigners, because they disliked them, that such a measure should be persisted in—that was a strong proof that there was no necessity for it. On all occasions he would give the government those powers that were necessary for the welfare of the state: he had done so; and, if called on, he would not shrink from doing so again: but he objected to unnecessary power; he objected to an authority, for the granting of which not a shadow of reason could be given; and he could not consent to grant an authority, the necessity for which those who demanded it would scarcely take the pains to explain.

Mr. *Bathurst* argued against the observations of the hon. member who had just spoken, contending, that experience and practice were opposed to the speculation and conjecture of that hon. member, when he maintained that English Jacobins, or by whatever other name those might be called who desired the overthrow of the government, had no disposition to seek assistance from congenial spirits in other nations; for it must be recollected, that when the enemies of our government were most anxious for the attainment of their object, they made an appeal for assistance to the National Assembly of France. But, if gentlemen would look to the general conduct, or rather to the uniform system of the disaffected of this country, they would find them resort to every quarter of the world where any symptom of a similar spirit appeared. It was, indeed, notorious, that every movement of insurrection or disaffection to established governments thoughout Europe, served as a motive, an example, and an encouragement to those who had the same views in this country. Could any one doubt, that if any disaffected persons in any nation

whatever were to come to this country, they would meet a gracious reception from those of the same description? Those, indeed, who thought that the sentiments propagated, and the effects produced by the French Revolution were quite removed, took a very narrow view of the subject; while those who contemplated the danger as it still continued, must feel the necessity of a measure of this nature, not with a view to secure the French government, as had been stated, from a dread of revolution, but in order to guard the country from commotion or disturbance. The feeling and example of the French Revolution were not yet done away, and while they continued to operate, government would be guilty of a dereliction of duty, if it neglected to provide due measures of precaution. As to the hon. member's assertion, that from the jealousy towards foreigners which prevailed among the populace of this country, no danger of foreign influence or aid could be apprehended, and that therefore the present measure was unnecessary, he could not concur in such an opinion; for men having a desperate purpose in view, could be easily persuaded to sacrifice their antipathy for the attainment of their object. He denied that this measure was unpopular among the higher and lower orders, as the hon. member had stated, while he was satisfied that the sound and reflecting part of all orders acknowledged the necessity, and applauded the policy that urged its adoption. It was an error to suppose, that the Alien act had only served for the punishment of the innocent, as England was known, notwithstanding the existence of this law, to have afforded for years an asylum for a number of those fugitives from a certain country, who had returned to that country to enjoy the sort of revolution which had lately taken place there. While the seeds of disaffection were scattered throughout Europe, and especially in this country, a measure of this nature was indispensably necessary, as a guard against commotion.

Mr. *Maxwell* said, that having supported this bill on a former occasion, he thought it necessary to explain the reasons for which he was induced to oppose it on the third reading. On the former occasion, the queen had not arrived in this country, or, at least, no measures affecting her honour and character were before this House, nor had those entrusted with the discretionary powers vested in them by this bill, exhibited that barbarous indifference to the distresses of the manufacturing portion of their own countrymen, which their recent proceedings evince. He could not longer consent to give them the powers conferred by this bill, for he no longer possessed that confidence in their humanity, which would permit him to give them the means of obstructing witnesses from abroad, whose testimony might be beneficial to the cause of an illustrious person, whose faults or crimes were mainly attributable to the errors and guilt of others.

On the question, that the bill be read a second time, the House divided: Ayes, 113; Noes, 63: Majority, 50.

List of the Minority.

Althorp, visct.	Maule, hon. W.
Bennet, hon. H. G.	Marjoribanks, S.
Benyon, B.	Mackintosh, sir J
Bernal, R.	Ossulston, lord
Birch, Jos.	O'Callaghan, J.
Bury, visct.	Ord, W.
Browne, Dom.	Palmer, C. F.
Beaumont, T. P.	Powlett, hon. W
Calcraft, J. H.	Price, R.
Cavendish, Henry	Parnell, sir H.
Colborne, N. R.	Parnell, Wm.
Crespigny, sir W. De	Ricardo, D.
Duncannon, visct.	Ridley, sir M.
Denison, W. J.	Rice, T. S.
Ebrington, visc.	Robarts, A.
Ellice, Ed.	Robarts, G.
Fergusson, sir R. C.	Ramsay, sir A.
Folkestone, visc.	Sefton, earl of
Fleming, John	Scudamore, R.
Graham, J. R. G.	Smith, hon. R.
Grant, J. P.	Smith, Wm.
Gordon, Robert	Sykes, D.
Gaskell, B.	Townshend, lord C.
Hughes, W. L.	Tavistock, marq. of
Hobhouse, J. C.	Western, C.
Heron, sir R.	Ward, hon. J. W.
Hume, J.	Williams, W.
Harbord, hon. E.	Wellesley, R.
Heathcote, sir G.	Whitmore, W.
Lambton, J. G.	Wilberforce, W.
Milbank, Mark	TELLERS.
Maxwell, J.	Davies, R. H.
Monck, J. B.	Wilson, sir R.

UNION DUTIES BILL.] This bill being recommitted,

Mr. *Hume* expressed his surprise and regret that sir H. Parnell had not succeeded in obtaining the appointment of the committee for which he had moved some time ago, as had that motion been agreed to, ample evidence would have been adduced to show that every impedi-

ment to a freedom of intercourse between the two countries ought to be effectually removed, and yet it was proposed, in the present bill, to continue for twenty years all those duties which formed the greatest impediment to that intercourse. He strongly protested against the renewal of such duties, contending, that at all events they ought to be reduced, with a view to diminish the evil which they served to produce.

Sir *H. Parnell* argued forcibly against the bill, the purport of which was, a general and indiscriminate renewal of all the duties upon all manufactures transmitted from one country to the other. When these duties were originally laid, they were for the avowed purpose of introducing and establishing manufactures in Ireland, and this, however erroneous it might be deemed, was a distinct and general object; but the right hon. gentleman, in proposing the further continuance of these duties said, he did so, in order to protect capital that was vested in their manufactures. This was certainly a very different motion from that which originally gave rise to those taxes. But the right hon. gentleman has not stated any distinct case to show where the capital was so invested as to require this protection, and this should be done before the continuance of such duties was agreed to. For where duties of this nature were not necessary for the protection of Ireland, they must operate as direct taxation upon that country. From the representation of the deputies of the Irish manufacturers who had communicated with the right hon. gentleman, it appeared that they could have no desire to continue the taxes, or what were called protecting duties, upon plated ware or pottery, for as these articles consumed in Ireland (there being no manufacture of them), were imported into Ireland from this country, the duty referred to only served to impose an additional tax upon the Irish consumers. Therefore it was desirable that pottery and plated ware should be wholly omitted from the schedule annexed to this bill. But there were other articles in this schedule to which he must request the attention of the committee, and upon the necessity of excepting which he could offer various arguments if time were allowed for due consideration. From the thin state of the committee he did not deem it proper to enter into the subject at any length, but he felt it his duty to state as briefly as possible the points which appeared to him to deserve the peculiar attention of the chancellor of the exchequer. Of the tax upon the import of brass wrought into Ireland, the Irish manufacturers particularly complained, for the effect of that tax, instead of operating for their protection, which was its professed object, was nothing more or less than a tax of ten per cent upon British machinery going into Ireland. The objection of the Irish manufacturers to this tax was indeed so strong, and so obviously just, that the Custom-house officers were known to have received instructions to relax as much as was consistently possible upon the import of brass in machinery. The tax upon cottons was also much objected to in Ireland, as it was known to be very injurious in its operation, and the tax upon apparel was rather a subject of ridicule, as he never heard of any such import into Ireland, unless of old clothes from Liverpool and Bristol. If parliament were determined to legislate upon sound principles, it could not surely assent to the continuance of such taxes, especially under the pretence of protecting duties for Ireland. There were indeed only three or four articles in this schedule for whose interest it was at all necessary to continue the proposed duties. These articles were cottons, calicoes, silk, and glass. But the removal of the duties on these ought to take place, if the proper construction were given to the Act of Union. But upon what ground was the duty to be continued as to articles of cabinet-making? The expense of freight and carriage from this country afforded sufficient protection to the Irish cabinet-makers against any competition from this country; and it was known that those cabinet-makers were very desirous to have the ports of England open for their furniture, where they calculated, from their superior skill and workmanship, to obtain very profitable markets. The Irish coach-maker also objected very much to the tax upon the import of English cloth, of which they used so much, as well as to that upon other articles which they used as springs. The effect indeed of these taxes was, to add ten per cent to the price of Irish carriages. But the tax upon leather was peculiarly objectionable—for as it became impracticable, from the absurd regulations of the Irish excise, to manufacture good leather in Ireland, the Irish boot-makers and saddlers generally used English leather, and

thus this tax was an additional impost of ten per cent upon the Irish consumers. The taxes, therefore, which he had mentioned should be altogether repealed. They were, indeed, for the most part, originally imposed under that mistaken system of the Irish parliament, which sought to confine the demand for Irish manufactures to the poverty of Ireland, instead of endeavouring to open to them the rich market of England. The erroneousness of that policy was now as it had been long evident; for the Irish manufactures which had access to the English market were those which had most prospered, as appeared from the success of the butter and linen trade, of the distilleries, and of the agriculture of Ireland. After enforcing, by a variety of impressive observations, the several points to which he had adverted, the hon. baronet expressed his intention to move amendments as to those taxes, which, as he had argued, ought to be discontinued, and concluded with proposing, that instead of "1840," as the period for the farther continuance of that part of the taxes to which he did not object, "1830" should be inserted.

After some discussion, the question, that the words proposed to be left out should stand part of the clause, was put and agreed to. The report was then brought up.

MILITARY IN THE CITY.] The *Lord Mayor*, in rising to offer an explanation on a subject to which the attention of the House had been called by the hon. member for Aberdeen, regretted that the hon. member was not present to hear his justification. He could assure the House that nothing had been farther from his mind than to call in the military for the purpose of overawing the livery or his fellow-citizens. His sole object in taking the precaution for which he had been blamed by some persons, was to preserve and protect the citizens of London; and for this purpose the military had been placed in the neighbourhood of the city—not within it, as had been erroneously stated. He had thought it prudent, on this occasion, to post soldiers in places contiguous to the city, lest any evil-disposed spirits should think fit to renew such outrages as had been committed in the mayoralty of Alderman Wood, when shops were broken open, arms were stolen, and acts of violence and bloodshed were committed. With this example before him, he had felt it his paramount duty to take every possible precaution for the preservation of the tranquillity of the city, especially at a time like the present, when speeches of an extraordinary kind were delivered, and when placards of a most inflammatory and atrocious nature were exhibited in every part of the town. He hoped, therefore, the House would give him credit for having done what his duty prescribed: and while he had the honour of being chief magistrate of London, he assured the House it was his determination to take every possible measure to preserve the public peace, and to afford protection to his fellow-citizens.

HOUSE OF LORDS.

Monday, July 10.

BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.] The Earl of *Liverpool* rose to call their lordships' attention to the order of the day made with reference to the bill he had introduced on the report of the secret committee. When this subject was under discussion on a former occasion, it was thought that the illustrious person against whom the proceedings were instituted, and her counsel, were desirous of considerable delay; but, in consequence of the report of the secret committee, and the bill which he had laid on the table, an application of a different nature had been made by the queen's counsel; namely, that their lordships should proceed forthwith with the inquiry. He by no means meant to complain of this as inconsistent, because he was perfectly sensible, that the different circumstances in which the case was then placed might give just ground for a change of opinion as to the time of proceeding. It must be obvious, however, that this change must, in some degree, affect those before whom the proceedings were to take place. But he did not make this observation with the view of casting any weight on that objection. On the contrary, he said that the call for an immediate inquiry having been made, their lordships were bound to answer it as far as it was practicable for them to do, consistently with the administration of substantial justice. This was a case in which they must put out of question every motive of mere convenience. On the last day on which this subject was under discussion, he had thrown out for their lordships consideration, whether they would think proper to

proceed with this inquiry without the presence of the judges. In the communications he had had with those whom he thought right to consult on this point, he was confirmed in the opinion, that their lordships would not exercise their duty in the manner which became them, if they proceeded in this measure without having the advantage of at least a portion of the judges. He said a portion; for, in looking back to precedents of the attendance of the judges in parliamentary inquiries, he found that the presence of the whole twelve had not been considered necessary. It had always been so arranged, that some were allowed to go the circuit. In the present case, there was no period, not even that which would be the most convenient—he meant November next—in which their lordships could order the attendance of the whole of the judges, without greatly interfering with the administration of justice. On this point, then, he certainly thought it would not be proper for their lordships to proceed without a part of the judges; but, from what he had stated, he was convinced the presence of the whole was unnecessary.

He had now to call their lordships attention to the next stage of the bill. Consistently with the wish of answering the call made for an immediate proceeding with as little delay as possible, he had made it his duty to inquire, what was the earliest period at which the presence of a part of the judges could be obtained, and he had found that, by the 17th of August, their lordships might have at least the attendance of four. It was therefore his intention to move that the bill be read a second time on the 17th of August next. He should follow up that motion with others which were consequent upon it. He was aware that the time proposed for prosecuting the inquiry was a most inconvenient period of the year; but he had no doubt, from the extreme importance of the case, that the House would be attended in such a manner as would render the decision, whichever way it might be, equally satisfactory to the public and to their lordships themselves. He had no doubt that their lordships would all be ready to make every sacrifice to the performance of their duty on so important an occasion. There were among them individuals who certainly had claims to indulgence on account of the constant attendance which their duties required, and who must naturally look to that period of the year as one of relaxation; but they, feeling the urgent necessity of the occasion, would be disposed to make every necessary sacrifice. There was one thing he thought should be impressed on their lordships minds—that this was a case in which peers neither could nor ought to vote by proxy. They ought all to be present during the deliberations, and all should vote in person. What would be the view of the illustrious person who was the object of the bill, with regard to the course he now proposed, remained to be seen. He knew not how far that illustrious person might, or might not, have objection to the time. He must observe, however, that if it should be thought advisable to make any application to their lordships for a change of time, or delay, he trusted that such application would be made within a few days; because, if it came in August, after the preparations for proceeding had been completed, and their lordships had made their arrangements for attending, it would be very inconvenient to comply with it. He must therefore repeat his hope, that if any such application was intended, it would be made without loss of time. If their lordships agreed to his proposition for fixing the second reading of the bill for Thursday the 17th of August, he would next move that a copy of the order be sent to her majesty,—that counsel be allowed to be heard for and against the bill before the second reading,—and that the judges on that day be ordered to attend. The noble lord concluded by moving, "that the bill be read a second time on Thursday the 17th of August."

Earl *Grey* did not oppose the motion made by the noble earl, but observed that, if there was to be any delay, he thought it would be much better that it should take place before the proceedings commenced than during their progress. He was ignorant as to what course the illustrious person against whom these proceedings were directed might wish to adopt; and, in the present state of the information before their lordships, it was difficult to suggest any thing on the subject. He thought, however, that some arrangement might be made with her majesty, so as to have the delay previously to the inquiry, instead of making it interpose, as it otherwise might do, to allow time for the preparation of the defence. How this was to be brought about he did not know, but he thought it might be accomplished by communicating to her

majesty a copy of the charges, and a list of the witnesses against her, which he considered nothing more than what strict justice required. Were this done, it was probable that their lordships might then adjourn the farther proceedings to a period of the year much more convenient for their attendance. Whatever delay might be necessary for the preparation of the defence might be procured by some arrangement like that he had taken before the second reading, and thus contribute to the convenience of all parties. To this suggestion he must add, that he did not think the noble earl had shown any necessity for the postponement. If their lordships were to endeavour to answer the call to proceed forthwith, why delay till the 17th of August? The noble earl was of opinion that the attendance of four judges was sufficient. Why was it necessary to wait till the 17th of August to obtain that number? He thought the attendance of that number of judges might be obtained now; and in that case it would be better to go on than to begin at the 17th of August with the probability of suspending the proceedings after that period.

The Earl of *Liverpool* assured the noble lord, that, from the inquiries he had made, he had found it was not possible for their lordships, with a due regard to the administration of justice, to call for the attendance of any of the learned judges before the 17th of August. He perfectly agreed with the noble earl, that it would be very desirable to obtain a delay before the commencement of the proceedings, rather than at any other time, if an arrangement for that purpose could be made suitable to the convenience of all parties. The noble earl thought that this object might be facilitated by communicating the charges and a list of the witnesses. As to the charges, he conceived that they were already sufficiently made known. They were as fully detailed in this bill as ever they had been in any other of the kind. With regard to the other and more important point, the communication of the names of the witnesses, he had given it his most serious consideration, and he was perfectly satisfied that no claim whatever could in justice be made to such a communication. It would be dangerous to make such a precedent, for it would tend to the establishment of one of the most inconvenient principles that could be adopted in proceedings of a similar kind, and to the introduction of a practice inconsistent with the ordinary course of the administration of justice.

Lord *Holland* desired the standing order, No. 47, which regulates proceedings of inquiry before their lordships, and directs that defendants may be heard by counsel, &c., should be read. He had no hesitation in saying, that if the date of this order, as it stood in the order-book, was correct, it was imperative on their lordships to grant to her majesty the substance of the depositions or charges against her. He had no wish to call upon their lordships to do any more in this case than what substantial justice required, and therefore he did not rest much on this ground; he would indeed candidly confess, that he had some doubt of the accuracy of the date: it was the 3rd of April, 1623. It appeared that proceedings were then instituted in that House against the lord-treasurer Middlesex. A report from a committee, at the head of which was the archbishop of Canterbury, had been made on the 2nd of April, stating that, in the course of their inquiry, reflections had been found to attach on the honour of the lord-treasurer. On the 5th a committee was appointed in the Commons to inquire into the conduct of the lord-treasurer Middlesex. If this order were entered on the Journals on the 3rd of April (the period specified), no doubt whatever could exist but that it was done for the purpose of granting to the lord-treasurer a communication of those charges that had been made against him in a secret committee, and with respect to which the other House had given him no information. A conference took place between the two Houses, and at that conference an accusation was preferred against the lord-treasurer. That accusation, and a report of the proceedings at that conference, were referred to a committee of their lordships, and they almost unanimously caused articles of impeachment to be drawn up against the lord-treasurer. The manner in which the business seemed to be conducted was this:—There was, on the part of the plaintiff and defendant, a certain report drawn up by the House, and witnesses were sworn at the bar to give evidence on the subject. On the 3rd of April, an inquiry took place as to whether the information required by the lord-treasurer should be granted to him or not. On that occasion, they did not arrive at any decision. On the 3rd of

May, a petition was presented from the lord-treasurer to that House, accompanied by certain interrogatories, which he wished to be propounded to some other witnesses, who were yet to be examined; and the lord-treasuser, in his petition, said, "Since your lordships have appointed Friday next for proceeding with this suit, I pray to have copies of the depositions furnished me in some convenient time before that day, in order that I may prepare myself for my just defence." On the motion that the lord-treasurer shall have just copies of the said depositions, which was moved by lord Say and Sele, and seconded by lord Horton, it was negatived at that moment, because the lord-treasurer's own witnesses had not then been examined; and it was also refused, on the ground that it might form a precedent for posterity. The subject was then referred to a committee of privileges, and they reported "that means of justification might be afforded before the final answer was given in, and that the lord-treasurer might then be allowed the depositions of all the witnesses, as well for him as against him." Then came an order of the 3rd of May, which specially related to those depositions. Now, as far as he had been able to understand what those depositions were, they comprised the whole body of evidence on which the House proceeded to judgment, which was simply read at their bar. He wished their lordships would get a clear understanding of the whole transaction with respect to the propriety of granting the depositions, and that they would make up their minds upon it. If the order to which he referred were placed on their Journals at the date which was then noted down, it was a case worthy the attention of their lordships. The whole point turned on the consequences that might be derived from a publication of the depositions, whether the matter terminated honourably or dishonourably for her majesty. If it were not proper in this state of the business to communicate the whole of these proceedings to her majesty's counsel, yet their lordships, he thought, must feel that it would be necessary that the substance of those depositions, and copies of the evidence, should at least be laid before those who were to act as judges in this case, prior to the hearing of the cause. This was done in ordinary cases, and ought, as far as they could consider the matter, with reference to analogy, be acted on here. Where informations were taken before a magistrate, the depositions were generally given in the presence of the party accused; but, whether they were sworn in the presence of the person accused or not, when the case came before the court for trial they were communicated to the judge. They were produced for the purpose of giving the judge an opportunity to ascertain the credibility of the witnesses, by checking the evidence sworn at the bar with that which had previously been given before the magistrate. There could be no reason surely for abandoning so fair a system. They had a right he conceived, so far to regulate themselves by the analogy which he had pointed out, as to give to the accused and to her judges the same advantages that would be given to any other individual in the country. By this course only could her judges properly consider and apply the evidence. He supposed the course of proceeding would be, when the second reading was proposed, for some noble lord to propose that counsel be called in and heard forthwith. That motion would of course be followed up by a communication to the attorney-general; and he wished to know whether it was the intention of the noble earl to furnish that individual with the contents of this bag? If he strictly adhered to precedent, he must do so; and he could not conceive how such information could be furnished to one of the parties, and not to the other. It was not possible, in his opinion, to furnish all necessary information to the prosecutors, and to withhold it from the party accused. The course of proceeding was a point to which they ought to apply the most vigilant attention, particularly if the report of the secret committee were such as could not be paralleled throughout the whole of their Journals. A great mass of evidence had been referred to a committee of that House for examination. The course of proceeding usually adopted by a committee of this sort was, to report the general nature and tendency, and, in some point, the details of the evidence, submitted to their notice: leaving their lordships, in a great measure, to draw their own conclusions on the matter in agitation. On this occasion, however, no information whatever was given with respect to the subject; on the contrary, the committee advised their lordships to adopt a certain mode of proceeding. This was the first time that a committee of their

lordships' House had pursued such a line of conduct. All these circumstances proved the proceeding to be a very singular one indeed. He, therefore, thought that the question put by his noble friend was a very proper one. He could see no reason why the names of the witnesses should not be disclosed to the accused party. Either a statement of the precise evidence should be allowed; or, if that were refused, a list of the witnesses should be forthcoming. What his noble friend suggested to the House was this—whether it would not be proper, when the case was gone into, to allow a given time to elapse, in order to enable her majesty to enter on her defence? If any other mode of proceeding were adopted, it would not meet the justice of the case. The ends of justice would not be properly attained, unless either at this moment, or at some future period, the necessary information were laid before her majesty's legal advisers, and sufficient time were given them to examine the evidence in all its bearings.

The Earl of *Liverpool* said, it would be better if the noble lord, instead of introducing this point incidentally, would make a distinct motion on the subject. Unless that were done, the House could not, he conceived, deal with the question. If any noble lord was anxious to introduce the subject to the House, he might do so by offering a distinct proposition with respect to it. For his own part, he had heard nothing that tended in the slightest degree to shake the opinion he had formed on this question. The noble lord, in support of his view of the case, had referred to an old standing order of that House; and he had very candidly observed, that he knew not how far it would apply to their lordships' present proceedings. But he believed, if they examined their Journals, they would find entries considerably later, and connected with analogous cases, where copies of depositions and papers of the nature of those that had been referred to the secret committee, were actually refused to the parties concerned, who had applied for them. In the case of bishop Atterbury divers papers were laid before the House of Commons in support of the charge against that individual. Copies of those papers were afterwards sent to the Lords. The bishop petitioned the House, praying to have sufficient time allowed him, before the second reading of the bill, to inspect those papers by his counsel or solicitor. That application was, however peremptorily refused. He did not state this as conclusive evidence on the subject, but as a proof that it was not always conceived necessary to furnish this species of information to the parties. He admitted it would not be just to withhold those depositions, if on them alone the judgment of the House was to be formed. But their lordships would see that their judgment was not to be founded either on the depositions, or on the report. They all agreed that it would be improper if the House were asked to declare an opinion on these documents; and, it had been stated all along, that the case was to be proved by oral testimony at their lordships' bar, subject to the examination, cross-examination, and re-examination, to which oral testimony was liable. Therefore noble lords need not give themselves up to the supposition, that their judgment was to be founded on the depositions in question. With respect to the question of time, he had no difficulty in saying, that great advantage would be derived from proceeding with celerity when the business had once commenced; neither had he the least difficulty in believing, that if delay were asked, if a good ground for postponement were adduced, their lordships would not object to such an application. This he would most distinctly state—that, with a view to the furtherance of justice, if a previous list of the witnesses, or else a period of delay between the accusation and the defence, were demanded, he would decidedly prefer granting the latter. This, however, was only his own opinion as to the most effectual way of obtaining substantial justice.

Lord *Ellenborough* said, if he had not misunderstood the noble lord (Holland), the argument which he used on this occasion was at variance with that which he had formerly advanced. The argument adduced against the secret committee was, that the consequence of laying those papers and depositions before such a body, without the examination of witnesses, would be to prejudice their minds in a considerable degree, and thus to render them unfit to act judicially on the subject. This, as far as his recollection served, was the objection against the secret committee; and that objection the noble lord now proposed to extend to the whole House, by placing under the eye of every peer those papers which, in the former case, he considered as likely to

create a prejudice in the case. So far from the perusal of those documents being restricted to fifteen peers, the noble lord now wished that they should be laid before the whole of their lordships, because it would give them an opportunity of comparing the evidence contained in those depositions, with the statements made at the bar of the House. He, however, thought that neither the circumstance of the depositions being submitted to a secret committee, nor their being laid before the whole House, would in the slightest degree interfere with the exercise of their lordships judicial capacity. He thought so, because they were not only judges in parliament, but hereditary counsellors of the Crown; and he was sure the constitution would not impose on them two duties that appeared to be incompatible with each other. As hereditary counsellors they might be called on to advise his majesty on a matter deeply affecting the honour and dignity of the Crown. Were they to refuse that advice? Were they to say to his majesty, "We cannot attend to your request, because we may hereafter be obliged to act as judges in parliament, and in that capacity we may be expected to decide on this case?". He apprehended that they could not give such an answer. In that case those who were hereditary counsellors of the Crown would be cut off from stating their opinion on matters of great public importance; for there was scarcely a situation of danger and difficulty in which the state might be placed, and on which their advice might not be required, that, by possibility, might not afterwards come before them as legislators, they having previously given that advice which seemed best calculated to meet the evil. He conceived that the noble lord had here fallen into some little inconsistency, which, he doubted not, he would explain with his usual ingenuity.

Lord *Holland* did not deny that the noble lord had stated very fairly the view which he had on a former occasion taken of the formation of a secret committee. He then said, it would be very unsatisfactory to the public, and therefore most unwise, to call for an opinion from fifteen peers, with respect to papers submitted to them, since they would be afterwards called to decide finally on the question in a judicial capacity. Now, in what he had observed this evening, there was nothing that could justly be termed inconsistent with that opinion. There certainly was some little difference between having papers laid before him, to enable him to compare the depositions with the evidence given at the bar, and having papers submitted to him which he had examined antecedently, and on which he had previously delivered some opinion. The objection of himself and his noble friends was, that the individuals who formed the secret committee would be placed in possession of *ex parte* information, and would, in the first instance, pronounce an opinion on those facts which they would afterwards have to consider as judges. This did not by any means apply to the case put by the noble lord. He had stated most correctly, that when a person who had been committed by a magistrate was about to be tried before a judge, the latter was furnished with the depositions taken in the case; and he argued, by analogy, that the depositions in the present instance should be laid before their lordships, as the judges of the charge. He did not see any thing inconsistent in this argument; on the contrary, he thought he might say there was something inconsistent in the noble lord's mode of arguing the question. If the noble lord really thought there was an advantage in thus proceeding by laying certain documents before a few peers, he could not conceive any reason for refusing the same advantage to the whole House. His argument was, that if fifteen of their lordships had those papers in their possession, and had declared an opinion on them, it was not fair to the parties, nor consonant with the principles of justice or humanity, to call on those peers to assist in deciding the question ultimately. It ought not to be left to judges whose opinion was already on record.

Lord *Erskine*.—My lords; much as I always desire to hear my noble friend on the right, I am not sure I should have given way to him, if I had not expected it would have been more to the matter now before us. He says that we have two characters, that of hereditary counsellors, and legislators also, and that if looking at the evidence secretly in the former character, disqualified us for sitting in judgment on it afterwards, no such parliamentary jurisdiction should have ever existed; but to that it can be only answered (and I am delivering no opinion on the point), that if looking at the evidence secretly, affects the judgment, as it is impossible to change the nature of

the human mind, the practice of the constitution should be altered. But that is not the question now—the committee has made its report—a bill has been brought in—it has been read a first time, and the 17th of August has been appointed for the second reading, and the only matter to be considered at present is, how we are to deal with it most consistently with the honour and character of the House, with the clearest safety to the accused, and in a manner the most congenial to the feelings of an enlightened people. My lords, the proceeding is so rare, or rather so anomalous, that it may be difficult to find a precedent that may exactly apply to it; but I wish to lay aside precedent altogether for a more satisfactory rule of decision, viz. for that mode of proceeding which is the most analogous to the general principles of our criminal law, on a case the nearest to the present, and which will hold the scales of justice the most even between the accuser and the accused. Your lordships must anticipate that excellent statute of king William for the protection of persons accused of high treason, which gives to the accused, even before the court is opened, a copy of the indictment, and a list of all the witnesses who are to be examined for the Crown. What is the principle of this admirable law which thus bestows a privilege which in ordinary cases is denied? It is, my lords, because in such a case the prisoner has not to contend with an equal accuser, or with equal securities against injustice. It is because he is to contend with mighty power, which is wisely vested by the law, but which demands a balance, and he is therefore covered all over with the armour of the law. Now was there ever a case more clearly of this description? I do not mean to speak invidiously, or to make any charges; but only to point out the situation of the illustrious accused. She has to contend against the Crown and its ministers, and against all the powers and influences they possess. In such a case, my lords, putting all right or precedent out of the question, I would most earnestly advise your lordships to give the list of the witnesses, unless you can show me who offered you this advice, that by doing so you would disturb the balance of justice, and confer a power to weaken and disappoint the accusation however just. Shew me this and I am silent, but you cannot show this without being prepared to repeal the statute of king William, because I ask even less than by that statute is compulsory on the Crown. After the list of the witnesses in a case of high treason has been delivered, though a fatal omission is afterwards discovered, it cannot be repaired; and the witnesses, though by accident omitted, cannot be examined; but in a case so anomalous, and where there is no law to demand such proceeding, it ought not to be required; but what objection then remains to a list of those that have at present been determined on?—The noble earl has said that he should prefer a proceeding without interruption, but that if the illustrious accused, after the witnesses for the bill had been examined, should desire time to contradict them, God forbid it should be refused, but that indulgence might come too late. The list of the witnesses is given, not merely that those for the Crown may be contradicted, but that, under cross-examination, if they are false witnesses, they may be made to contradict themselves. My lords, I pray you to consider this—the noble earl has said that the question is not closed, and that it may be re-considered. It appears to me to deserve re-consideration. We are placed in the view of the public, and I know we shall fulfil our duty. The judicial character of the House of Lords supports all the other tribunals of justice, and the attendance of the judges would be of no value here unless our superior character were held sacred by the people, which I hope and trust they ever will be. My lords, I have not made these observations from any desire to disappoint or obstruct the course we are engaged in. When the court assembles I will do my duty, as if all the angels in heaven were taking notes of whatever passed through my mind on the subject; but I wish to be placed in a situation in which I can do this duty with safety.

The *Lord Chancellor* declared, that he looked at this case with a feeling of the most perfect impartiality, and he wished to God that it was attended to with the same calmness both in that House and out of it. In that House, he was persuaded, it would be so regarded; but out of that House it was quite shocking to see how much it had been neglected. With respect to what his noble and learned friend had said, it appeared that there was no one case whatever, except that of high treason, which he could state as having the smallest analogy to the present;

and even that his noble and learned friend was obliged to give up. He must evidently give it up, as the law at present stood; and he was glad of having this opportunity to state his opinion. In the course of his professional life he had had occasion to see enormously long lists of witnesses, comprising perhaps 200 or 300 persons, given to defendants in cases of high treason. How could this be avoided as the law now stood? There was, in fact, no way of avoiding it; because, in cases of that description, the prosecutor could not call a single witness whose name was not included in the list. And it was most extraordinary, that if the witnesses for the defendant swore, in a court of justice, that every one of their lordships were present at a meeting, where not one of them had, in truth, attended, unless their names were inserted in the list of witnesses for the prosecution, none of their lordships could be called to contradict this statement. The analogy, therefore, between the two cases, was entirely at an end. On what ground could it rest? He contended that it was a much more proper proceeding to go on in the ordinary and established course, unless that House wished absolutely, by adopting a novel principle, to strip itself of its most valuable rights and privileges, and to declare that in future there should be no previous inquiry, either by a select committee or a general committee—unless their lordships meant to say that they never could proceed with such a bill till an inquiry had been instituted in committee. And, as the proceeding was to be ultimately a public one, what danger was to be apprehended? He had never heard any individual express the least belief that the proceeding would not be a public one at the bar of that House. He should be glad to know whether his noble and learned friend could state an instance, except in the case of high treason, where, according to the principles either of law or justice, a list of witnesses was given to the accused party preparatory to trial. He defied his noble and learned friend to do so. The arguments that had been used might afford good reason for postponing the hearing of the defence; and he was sure their lordships did not imagine that there was a man in that House, or out of doors, who believed that the defence would be entered on until a full and fair opportunity was given to sift the character of every witness as far as possible. This was a case not to be considered with respect to the individual, but with reference to the general principle; and he asked their lordships, if they once settled this precedent, contrary to every thing they had ever done, whether it would be possible for them, on any future occasion of the like kind, to proceed in the same manner as that in which their ancestors had proceeded up to this day?

The several motions were then put and agreed to.

HOUSE OF COMMONS.

Monday, July 10.

Sir William Manners.] Sir *Robert Heron* informed the House that he understood Sir William Manners had surrendered himself, and was then in the custody of the serjeant-at-arms. The two individuals also, H. Manners, esq. and W. Atter, who had been ordered to attend were then in attendance. Knowing, as he did, that the evidence of the two latter was no longer wanting before the Grantham committee, and remembering the lenity which the House seemed disposed to exercise in their case, as having acted without an independent will of their own, he should conclude with moving, that the order for their attendance be discharged. The House would recollect, that A. Jarvis, another person who had refused to attend the notice of the committee, was on Saturday last committed to Newgate. He believed that he should shortly have to present a petition in his behalf. With regard to sir W. Manners, it was not his intention to submit any motion.

Mr. *Wynn* was of opinion that, considering the view which the House originally took of the situation in which the individuals who were the subject of this motion stood, there was equal ground for at present exercising the same lenity.

The order for the attendance of H. Manners, esq.. and W. Atter was then discharged. The serjeant-at-arms reported that sir W. Manners was in attendance.

Mr. *Wynn* thought there was but one course to pursue, and that the House was clearly bound to act as it had done in the case of Jarvis. He therefore moved, "That sir William Manners, baronet, having absconded, in order to avoid being taken into custody pursuant to the Order of this House, be for his said offence com-

mitted to his Majesty's Gaol of Newgate; and that Mr. Speaker do issue his Warrants accordingly."

Sir *James Graham* said, that he understood sir W. Manners had left his home before the order was made for taking him into custody. By the evidence of the messenger it appeared, that before the House debated upon that order, sir W. Manners had gone from his usual place of residence at Buckminster, and could not justly therefore be said to have absconded. He trusted, as some misconception seemed to have prevailed, that the House would not deem it necessary to adopt the motion, and should move that the order for his attendance be discharged.

Dr. *Phillimore* was persuaded, that if the hon. baronet were apprised of the resolutions to which the House had already come upon this subject, and the course which it had hitherto pursued, he would not have brought forward his amendment. It appeared in evidence, that sir W. Manners had set at defiance the order of the House, and had actually barricadoed his doors for the purpose of preventing its execution. He must remind the House likewise, that they had already punished one person for similar conduct, and that person the servant of sir W. Manners. Could they with any propriety liberate the master, after they had sent to prison an individual dependent upon him, and who, from his station in life, could hardly be so well acquainted with the nature of the offence he had committed. He felt assured they would deal out equal justice, and should only observe in addition, that it was not on a report of the committee that they were proceeding, but that the House had satisfied itself by an examination at the bar.

Mr. *Tennyson* said, that on a former occasion he had interfered in favour of sir W. Manners, conceiving that as he had been selected as nominee in the committee for his son, it might fairly be expected of him as an incidental duty. He unfeignedly agreed in what had fallen from the hon. baronet who had moved an amendment, for the absconding certainly did not appear in the evidence on the Journals. The House should also know, that though it had been applied to on behalf of the sitting member to enforce the attendance of sir W. Manners and others as material witnesses, yet they had not been examined, though in attendance the whole of that day, which had brought the proceedings of the committee to a conclusion. —The hon. member was proceeding, when

The *Speaker* spoke to order. It was subversive, he said, of the authority of the House that a person called upon as a witness by a warrant of the House, should take upon himself to refuse obedience to that warrant, on the consideration whether or not he was a material witness; and therefore it was disorderly to urge as an excuse the circumstance stated by the hon. member. Also, if observations were permitted on the manner in which an election commitee executed its duty, it could not be foreseen how far interference with committees might be carried.

Mr. *Tennyson* said, he should be the last person in the House who would undervalue the warrant of the Speaker, and would ever be found among the first to maintain its due authority and dignity; and if he had been permitted to proceed, he was persuaded he should not have been called to order, and that, as it appeared to him, in a manner which seemed to imply some reproach—he might almost venture to say reproof, which he did not feel he deserved, merely wishing to discharge his duty. As to what he had said respecting the witnesses not being called, he had referred merely to the counsel and parties interested for the sitting member, and not to the conduct of the committee; and he had wished to observe also, not for the purpose of defence, but with a view to the mitigation of punishment, that if he might reason by analogy to the practice of courts of law, where a party could not apply with effect to the court against a witness who refused to attend on a subpœna, unless he accompanied his application by an affidavit that the person who refused to attend was a material witness.

The *Speaker* again spoke to order, and said that the hon. member had much misunderstood the observations which he had felt himself called upon to make: nothing was farther from his wish or intention than to convey the slightest reproof to the hon. member, and he regretted that he should have thought so; but he had a strong impression that the subject matter of the hon. gentleman's speech was disorderly, as conveying the idea that a difference should be made by a person to whom a warrant was issued, in the obedience which he might pay to it by the consideration whether it was or was not necessary that he should attend.

The amendment was negatived, and the motion agreed to; and the following order was made: "That the keeper of his majesty's gaol of Newgate do to-morrow, and from time to time, bring the said sir William Manners, when he shall be a prisoner in his custody, to the committee on the Grantham election, in order to his being examined as often as the said committee shall think fit to require the same; and that Mr. Speaker do issue his warrant accordingly."

OPHTHALMIC INSTITUTION.] Mr. *Bennet* moved for an account of the number of soldiers pensioned on account of blindness. He felt it his duty to state, that since he had before mentioned the subject of the Ophthalmic institution in the House, he had visited it in company with an hon. friend of his. He had gone there without any notice, and he never saw any thing of the kind better managed.

Sir *T. Acland* said, he could bear testimony to the merits of sir W. Adams. It was worthy of attention, that many persons who had received pensions for life on account of blindness, had been since cured by sir W. Adams.

Lord *Palmerston* said, he had felt confident when the subject was before under discussion, that Mr. Bennet would do as he had done, state simply and plainly what he had seen. The question as to the manner of granting the pensions was before the Chelsea board.

Mr. *Barham* observed, that sir William Adams had failed only in those cases in which the subjects had been pronounced incurable by other oculists; but even in such cases that eminent oculist had afforded relief.

Mr. *Hutchinson* said, he had felt it his duty from what he knew of the melancholy disease which gave rise to this institution, as well as from what he had heard of the distinguished individual under whose superintendence it was placed, to visit that institution, and he was at once astonished and gratified by the result of his observation; for he found that several gallant men who had bled in the service of their country, and who had, in the opinion of other surgeons, been totally bereaved of sight, were quite recovered, while the worst cases were considerably ameliorated. Having witnessed such cases, he could not forbear from making the statements which upon a former occasion he thought it proper to submit to the House. The fact was that sir W. Adams had, by a long course of study and experiments, succeeded in discovering the means of curing one of the most dreadful maladies that ever afflicted mankind; and the army having been the principal sufferers from this malady, he was requested by government to make known his discovery to the army surgeons. With this request sir William complied without hesitation or reward, and the consequences were universally and gratefully felt, especially by those members of the government who had the best opportunity of judging. When, then, it was determined to erect an hospital for the purpose of relieving those soldiers and seamen who were still afflicted with ophthalmia, sir W. Adams was very naturally selected to preside over that institution; and the selection was equally creditable to the judgment and liberality of the secretary at war. The noble lord had, he understood, incurred considerable obloquy for this selection, especially among those army surgeons who allowed their feeling of envy to supersede their sense of duty. But the noble lord firmly withstood every clamour, arising from professional prejudice or private pique that would dissuade him from patronising merit and removing disease. Hence the Ophthalmic Hospital was established, and continued in despite of opposition, and for the benefit of humanity.

The motion was agreed to.

HENRY D'ESTERRE, ESQ. RECORDER OF LIMERICK.] On the motion that Henry D'Esterre, esq. be brought to the bar in order to be discharged agreeably to his petition,

Sir *J. Mackintosh* rose, not with a view to oppose the motion, but in order to suggest the condition in which this unfortunate individual was placed by his own conduct. He did not mean to interpose between this individual and the proposed lenity of the House. This individual admitted that he was guilty of prevarication on oath, and as he was a member of a liberal profession, it would be for those who composed that profession, to consider whether it were fitting that he should be allowed any longer to belong to such a profession. But without desiring to aggravate the suffering which the reflections of his own mind must inflict upon this individual, he must observe upon that which was material to the public. This indivi-

dual occupied a high judicial station in Ireland; and was it fitting, that after his own confession of guilt, he should be allowed to fill such a station?

Mr. *Dawson* said, he was one of the members of the committee before which the prisoner had been guilty of gross prevarication; and without desiring to interfere with the rights of the corporation of Limerick, he could not help saying that such a person should not be allowed to remain in any judicial station.

Mr. *Daly* said, that he presented the petition, as that petition was couched in language respectful to the House; but he had no desire whatever that the petitioner should continue to occupy a judicial office.

Sir *J. Mackintosh* expressed a doubt whether the prisoner should be released without some assurance that he would be removed from the office of recorder of Limerick.

Mr. *Daly* said, that as the office which the prisoner occupied was subject to annual election, and as that election must be sanctioned by the lord lieutenant, there could be no reason to apprehend the re-appointment of the petitioner after the decision of that House.

Mr. *Grant* remarked, that there could be no doubt whatever of the attention of the lord lieutenant to the decision of that House.

Mr. *Bankes* observed, that the conduct of the prisoner was, according to his own confession, so grossly disgraceful, that it would be obviously indecent to allow his continuance in a judicial or any other office of trust or consequence.

Mr. *Daly* thought the prisoner should resign the office which he held.

Mr. *Grant*, understanding the office which the prisoner held was one of annual election, and that such election would take place in September, subject to the approbation of the lord lieutenant; had no hesitation in stating that this approbation would not be granted to the election of the prisoner after what had transpired in that House.

Lord *Castlereagh* observed, that after what his right hon. friend had stated, and as the election for the office which the prisoner held would take place at no distant period, he thought there could be no objection to the motion.

Henry D'Esterre, esq., was then brought to the bar, where he received a Reprimand from Mr. Speaker, and was ordered to be discharged out of custody, paying his fees. The Reprimand was as follows:

"Henry D'Esterre; You were reported by the select committee appointed to hear and determine the merits of a petition complaining of an undue election and return for the city of Limerick, as having been guilty of gross prevarication. For this you were committed to his majesty's gaol of Newgate. Your petition, praying to be released from further confinement, has been received, and you are brought this day to the bar, in order that you may be reprimanded and discharged.

"If I were now called upon to reprimand a person of the lower ranks of life, half educated, and half ignorant perhaps of the solemn obligation of the oath he had taken as a witness, it might have been my duty to enlarge upon the nature, the character, and the consequences of such an offence; to have impressed upon him, as far as I was able, how such an offence, if tolerated, must defeat all the ends of truth and justice, and how it differs rather in a legal, than in any moral construction from a direct act of perjury. Into all these details to such a person it might have been necessary for me to enter;—but when I am addressing a person of higher rank and station, of better education, and clothed too himself with a judicial office, it cannot be necessary that I should thus add to the painful duty already imposed upon me; either by expatiating upon the enormity of the crime, or the disgrace of the punishment.

"Your own mind will suggest to you, more and severer reflections than any words I am master of could convey. To these reflections I am prepared entirely to trust, and shall conclude with communicating to you the order of the House, that you be discharged from further imprisonment; and you are hereby discharged, on the payment of your fees."

ALIEN BILL.] On the order of the day for going into a committee on the Alien Bill,

Sir *James Mackintosh* rose, not to oppose the question that the Speaker do now leave the chair, nor yet to enter into any discussion on the general merits of the bill then before the House. He had expressed his opinions upon that question so frequently upon former occasions, that he felt himself perfectly justified in not repeating them at present. He had another motive, of a much more powerful

nature, for not entering into any general discussion on this bill upon the present evening, which he should take the liberty of shortly stating to the House. The last time that this bill was brought before the attention of parliament was in 1818, and it was then proposed by his majesty's ministers because there happened to be thirty-eight French exiles and three French newspapers established in the Netherlands. That was thought to be a sufficient reason for withdrawing the protection of the law from 22,000 individuals who were then living under it. But at present not even such a pretext as was then employed had been brought forward. His majesty's ministers, from a confidence arising out of their former success, now proposed the renewal of this bill, not only without any reason, but without even the allegation, intimation, or insinuation, of any reason. The House had heard the bill introduced, and had heard it also recommended by three or four ambiguous phrases, which applied as much to it as they did to any other subject which had been introduced into that House since the era of its first foundation. That might be well enough on the first reading of the bill; but what occurred on the second, when those who were hostile to it came down to the House in expectation of hearing arguments advanced in favour of it, and prepared, if such arguments were advanced, to refute them in every particular? Why, that ministers were equally silent upon that occasion also; and thus evinced their determination of proposing a bill for the partial suspension of the constitution, without urging a single argument to show the necessity of it. Upon that occasion a speech had been delivered against the measure, which was not less distinguished by its solidity than its brilliancy, and which proved the power of a superior mind to give novelty to an exhausted subject. A most lame and impotent reply to that speech had indeed been attempted, and it was contended that the bill was necessary, because by possibility our domestic tranquillity might be disturbed by foreign incendiaries. He would not dwell upon the absurdity of supposing, that, under existing circumstances, incendiaries from Seville, or Berlin, or Paris, were likely to avail themselves of tumults at Glasgow or Manchester. This miserable interest for continuing the measure had been exposed by all the powers of wit and reason; and had been justly held up to the scorn and derision of the House. He should not, therefore, on the present occasion, do any thing so needless as to repeat the arguments which had been already urged against this measure; nor any thing so hopeless as to endeavour to obtain an answer to them from his majesty's ministers. Indeed, it appeared to him as if their design was to have this bill renewed, time after time, without giving a single reason why it should be renewed, until they obliged those who opposed it to relinquish their opposition out of mere lassitude; and then, when they had produced that effect, to make it permanent, as if it were a mere matter of course that it should become so. However paradoxical it might appear, this bill was likely to creep on till it became part of the law of the land, merely because the objections to it were never answered. No lawyer had ever yet proved it to be consistent with the law of this country, and no statesman had ever yet shown it to be at all necessary to the tranquillity of the empire: and the House had been called upon to register this ministerial edict, simply because it was the will and pleasure of ministers that it should do so. He should not at present employ more words upon this tyrannical and execrable bill, which he always would call tyrannical and execrable so long as the liberty of speech was left to him. His only object in obtruding himself at that moment upon the House, was to propose that certain instructions should be given to the committee before the bill was submitted to its consideration. It was requisite that such instructions should be given, since he could not otherwise propose, in the committee, certain clauses which appeared to him to be expedient, the title of the bill not being an act to "amend and continue" the act of the 56th of the late king, but only "to continue" it. The instructions which he proposed that the House should give to the committee were, to receive and consider three clauses, which he should hereafter propose as amendments to the bill; and if it were consistent with the forms and proceedings of the House, he should move also that the words of the amendments be put upon the Journals of the House, as an appeal to posterity against this most unconstitutional measure. The first of these clauses related to the appeal to be made to the privy council. By the bill of 1814 a sort

of appeal was given to the alien; for the privy council were empowered to consider any reasons which the alien might urge against his being sent out of the kingdom. That clause might have afforded a sufficient relief to the alien, if it had been understood and acted upon in the same spirit with that in which it was passed. But as it was now construed, it gave to the alien no right to demand what was the specific charge against him, no right to call witnesses to disprove that charge, and no right to employ counsel to defend him against it; it was therefore nothing else than a bitter insult and a cruel mockery upon him. A case had even occurred in which another difficulty had been thrown in the way of the alien by a pettyfogging magistrate, who had refused to hear his appeal because the act stated that it was to be made, not to a magistrate, but to the privy council. There were thus four clear and distinct grounds on which the act, as at present worded, required amendment. First of all it called upon an individual who might not understand our language to defend himself, and did not allow him the benefit of counsel; secondly, it did not enable him to call for an explanation of the charges on which he was to be sent out of the country; thirdly, it did not enable him to call witnesses in his own defence; and fourthly, it did not allow him that appeal to the privy council through a magistrate. To remedy this crying injustice, he should propose a clause authorizing the privy council to give the alien, on his being arrested, a general summary of the charges exhibited against him; and giving to the alien the power of calling witnesses to refute those charges, and the right of being heard in his defence, either in his own person or by counsel. He did not ask that the alien should know who were his accusers, much less that he should have the right to be confronted with them; he only asked for such an extension of the fair principles of English law to him as was requisite to procure him justice. The second clause which he had to propose was one which he thought would put the sincerity of his majesty's ministers to the test, and would show whether they were really in earnest in the professions which they had so frequently made to the country. They had said that this bill was introduced to protect the public peace against foreign agitators, and did not extend to individuals who followed a civil or industrious profession, or who gave a pledge of their tranquillity to government by placing their families, their property and every other tie which binds man to man in society, under its protection. He should, therefore, propose, that all aliens who had been settled in this country previously to the 1st of January, 1814, should be exempted from the operation of this act. The period which he had chosen was before the first peace of Paris, which was not made till May in the same year; and therefore this clause exempted no Napoleonist, no Jacobin, and indeed no other class of men who were likely to disturb the peace of civilized Europe. If it did not exempt such characters from the operation of the law, whom did it protect against it? Merchants and their families—men of letters and ingenious artists—useful and peaceable artisans, who came to this country, not for their own private advantage only, but also for the general benefit of the community of which they formed a part, and which they enriched by their talents and ingenuity. After the manner in which ministers had treated the admirable speech which had been made upon a former evening—and which he supposed that they had allowed to remain unanswered because they found it to be unanswerable—he could not expect that they would show more attention to any thing which fell from so humble an individual as himself. But if they would allow him to speak to them as legislators, he would ask them to specify what class of men would be exempted from the law as it would stand if his clauses were agreed to? Would they tell him that, in spite of its precautions, two or three dangerous characters would still be able to remain in this country, and to brood over their dark and wicked machinations in secret? If they should make him that answer, he would ask them to point out the case where laws were made against two or three individuals only; and the time when there had not been two or three individuals with mischievous and mistaken views in the country? He must, therefore, maintain that this clause ought to be added to the bill, if the House wished to preserve that character which England had hitherto always maintained for justice and humanity towards foreigners. The third clause which he had to submit to the House was one which it would not be necessary to propose on any other occasion than the

present, but to which, on that very account, he was anxious to draw the attention of every gentleman who heard him. There was at present before parliament one subject of the most delicate and deplorable nature, on which he had not as yet made a single observation for many reasons, and chiefly that he might preserve that temper, which, if judicial duties were to be imposed upon him against his wishes and without his consent, was so necessary to be preserved unimpaired, in order to the proper discharge of those duties. The only interests which he regarded in that transaction were the interests of public justice—the highest and most valuable of all. In furtherance of those interests, it was the duty, not only of himself, but of every other member of that House, to take care that the course of justice should not be disturbed, that its impartiality should not be questioned, that its character should not even be suspected, in a case the most painful and deplorable that had ever fallen under the notice of parliament. Honourable gentlemen would of course be aware that he was alluding to the case of the queen. It was his opinion—and he much doubted whether any member would be found bold enough to oppose it—that no party in that transaction ought to have any undue influence over the witnesses who might be called on to give evidence regarding it. He presumed that it was so obvious a truth as not to require him to say a word in illustration of it, that no party ought even to entertain a wish that any such influence should be exercised. He should, therefore, propose to the House, that it should give instructions to the committee to consider a clause, to exempt from the operation of this bill any person or persons who might come from foreign parts to give evidence either for or against a bill of pains and penalties now pending against the queen of England. He said "witnesses who might come to give evidence either for or against;" for the reason which rendered this clause necessary to be applied to both parties. It was essential that ministers, who, in spite of their denial of it, were certainly the constitutional prosecutors of the queen, should not have the power of excluding the witnesses in favour of her majesty from this country, for such a power would tend to the lessening of justice; neither was it fit that they should have the liberty of banishing their own witnesses; for, if such power were to be allowed them, parliament would grant to them the power of sending out of the country all those who were likely to give what they would deem disagreeable testimony. He must own that he, for one, did not expect that any such power would ever be exercised by the present ministers; he would not say, even for the sake of debate, that he thought any such violation of justice was likely to proceed from them; but still that formed no answer to his argument: for, would any man say that a number of witnesses, some of whom were, he understood, from the lowest classes in society, and therefore, in all probability, totally ignorant of our language and our laws, might not, on hearing that there was such an act in existence as the Alien act, take it into their heads to think that some power, in abuse of it, might be exercised against them? It was requisite to the purposes of justice that they should be released from all such fears; for, whilst they existed, it was impossible to suppose that some unfair bias would not influence their minds, calculated to produce a testimony not exactly according with the dictates of their conscience. Even if he could suppose that foreigners, in such a situation—entertaining, too, religious sentiments widely different from those of the majority of the country, and therefore likely to entertain more fear of every thing which could be urged in a hostile manner against them by its inhabitants—would not be actuated by any such dread as he had described;—still he had another reason behind, which made him more anxious than any other that this clause should be adopted: it was the possibility that a report of such injustice being practised towards her majesty might prevail both in this country and upon the continent. It was to deprive the constant calumniators of parliament at home, and the irreconcileable enemies of our honour and our institutions abroad, of the opportunity of propagating so foul a slander, that he wished the House to adopt the instruction which he had proposed. He owned that he had no fear himself of any unjust or undue influence being exercised by ministers on this occasion; but he could not infuse that opinion into the minds of many thousands of ignorant persons, both in our own and in other countries, without the adoption of some such clause as he had just read to them. He should therefore move that it be the instruction of this House to the committee to con-

sider of three clauses, in order to their insertion in the present Alien bill. The first instruction which he should wish to be given to the committee was this—"That it be an instruction to the said committee, that they have power to provide that the lords of his majesty's privy council shall cause to be delivered in writing, a general summary of the matter alleged against any alien to such alien; and that it shall and may be lawful for him to summon, and examine upon oath, witnesses before the privy council, and to be heard before them, by himself or his counsel, in support of the excuse or reason by him alleged."

Lord *Castlereagh* said, as he understood the hon. and learned gentleman to have commenced his speech by saying, that he would not enter into any discussion of the general merits of this bill, he should certainly imitate his example, and apply himself more to the consideration of the clauses which the hon. and learned gentleman had proposed than to the general observations into which he had digressed, notwithstanding his promise at the commencement of his speech. And here he could not help remarking, that it was easy for any hon. and learned gentleman to assume that nothing had been said on his (lord Castlereagh's) side of the House in support of the measure which was now before it; and if such an assumption were afterwards to be insisted on as a truth, it would be a convenient mode of arguing, and a cheap method of acquiring a victory. If, however, such a mode of arguing were to be held satisfactory, and if assertion were to be deemed equal to truth, he might meet the assertions of the hon. and learned gentleman opposite with others of his own, and might say, that the arguments formerly urged in defence of this bill had not only been satisfactory to his (lord Castlereagh's) mind, but also to those of former Houses of Parliament. It was from knowing how convincing those arguments had appeared to those who had sat in former parliaments, and also from knowing how widely those arguments had been discussed, and how generally approved by all who had attended to them, that he had deemed it unnecessary to inflict a repetition of them upon the House on present occasion, especially as no arguments had been advanced by the opponents of the measure, which had not been a thousand times advanced, and as often refuted; and therefore, if he had abstained from entering into a long discussion upon the bill at present, it was not because he had nothing to advance in behalf of it, but because nothing new had been advanced against it. The clauses for which the hon. and learned gentleman had wished the House to give instructions to the committee were none of them new except the last; the other two had certainly been brought forward once before; and, if his memory did not fail him, more than once by the hon. and learned gentleman himself. The general feeling regarding those clauses, on their first introduction, was, that if the Alien bill were to be looked upon as a permanent measure, then it might be necessary to enact such clauses; but, as it was only proposed as a temporary measure, that such clauses were not requisite; for what, he would ask, was the nature of them? The first of them was to enable the privy council to enter into a regular judicial investigation of any charge that might be instituted against an alien; and, in order that this point might be effected, it was proposed that the alien should be presented, with an account of the charges on which he was considered to be dangerous to the state, and should be enabled to summon witnesses, and employ counsel in his defence; in short, every precaution was taken to ensure a regular investigation into every charge of a political or personal nature that could be preferred against him. Now, it was quite clear that, if there was any danger in allowing an alien to remain in the country, the charges against him could neither be framed with that preciseness, nor proved with that accuracy, which was necessary to a bill of indictment; for it would be evidently injurious, as the hon. and learned gentleman seemed himself inclined to admit, to call into court the witness on whose evidence the charges were first preferred. If the House was not inclined to pass the bill in its present shape, let them say so at once; but let them not continue it in such a manner as would introduce into the country a new and, as yet, an unheard-of, tribunal. With regard to the 2nd clause proposed by the hon. and learned gentleman, he did not think that it was quite so clear as he appeared to think it to be, that no persons had come into the country, and were in it at the time which he had specified, who entertained views hostile to its tranquillity and freedom; and therefore, unless the hon. and learned gentleman could show

some better reason than that which he had just urged for this clause—as, for instance, tyranny or oppression in the execution of the present law—he must oppose it as unnecessary upon the present, as he had upon former occasions. He could not agree to the distinction of the hon. and learned gentleman, between foreigners who had resided in this country before or since any particular period; nor could that distinction furnish any criterion, whether they were or were not objects of suspicion and jealousy to the state. The only just distinction which could be recognized by the legislature was that between foreigners who were naturalized in this country, and those who owed no allegiance to it. He felt infinitely stronger objections to the third clause than he did to either of the two former ones, because he could not conceive how any greater libel or any more unjust reproach could be devised against his majesty's ministers than that which it contained. For, what did it imply? That his majesty's ministers would use the powers intrusted to them by the law in preventing justice being done to a most illustrious individual. The hon. and learned gentleman had certainly done his majesty's ministers the justice of saying that he did not believe they would employ such powers to such improper purpose; and had further added, that he did not think that any government would have the assurance to do so. That was all very candid on the part of the hon. and learned gentleman; but he seemed not to have taken into consideration, that so far from endeavouring to retard any individual from coming to give evidence in favour of her majesty, he (lord Castlereagh) had even offered to use any influence which he might have abroad to obtain the evidence of any individual whose attendance might be deemed by her majesty essential to her defence. If this clause were added to the bill, it would be deemed abroad one of the grossest stains that could be inflicted on the present government, and would tend to disgrace it more in their eyes than any other measure which he could possibly devise. Such disgrace, however, he boldly asserted that ministers did not deserve; but if the hon. and learned gentleman had been really anxious to know who did deserve disgrace, he might have looked in quite a different direction, and there he would have found circumstances which were likely to entail lasting dishonour upon the country. He would have discovered that foreigners, who had come to this country to bear evidence, he would allow, against the queen, under the pledge of its hospitality and humanity being extended to them, had been insulted on reaching our shores, in the most gross and outrageous manner. In noticing that circumstance, the hon. and learned gentleman would have shown himself a supporter of practical, instead of merely theoretical humanity. For these reasons he trusted the House would not accede to this clause, but would repel with indignation the foul calumny which it tended to throw upon ministers; and that they would also show, in rejecting it, that, if there were individuals in this country who could disgrace themselves by participating in such outrages as those to which he had just alluded, there were none in that House who would raise up their voices in support either of the outrages themselves, or of those who had committed them.

Mr. *Scarlett* felt considerable surprise at the very extraordinary speech which he had just heard from the noble lord. For, what was the argument of it? That the power given to ministers by this bill was so odious, that it was a gross libel and a wicked calumny upon them to suppose that they could ever employ it. Why, if this argument were to be allowed for a moment, the ministers might in a short time ask for the suspension of the Habeas Corpus act upon a similar principle. They might address parliament to the following effect—"For God's sake suspend the Habeas Corpus act—for God's sake give up your right to a trial by jury—for God's sake repeal all your most valuable laws. The power we shall gain by such measures will be so odious and abominable, that it will be a libel upon us to suppose that we shall abuse it, and therefore you will be in quite as good a condition as you are at present." But could any thing be more ridiculous than this line of argument? He, for one, thought not. The noble lord had misrepresented the arguments of his hon. and learned friend. His hon. and learned friend had not proposed these clauses for the purpose of insinuating any calumnies against his majesty's ministers; on the contrary, he had distinctly stated that his object was, to repel such calumnies. He (Mr. S.) could not believe that the noble lord would make any improper use of the powers conferred by this bill; yet it was extremely possible

that the noble lord might be suspected, and he would tell the noble lord why. He did not believe that the country at large entertained that opinion of the perfect integrity and freedom from all motive of his majesty's government, which the noble lord could not but entertain himself The very circumstance to which the noble lord had alluded to in proper terms of reproach, was a proof that the public opinion of his majesty's government was not what the noble lord thought it deserved. The noble lord had said, in answer to his hon. and learned friend, that he had satisfied the House on former occasions, and there was therefore no occasion to repeat his arguments. Now, he would ask the noble lord whether the existing circumstances of Europe might not render some arguments necessary to justify the renewal of this bill which were not necessary on its last adoption? Was there no change of circumstances in the last two years? Had nothing been done to secure the safety of this empire? Were we still exposed to the danger of revolution from foreign incendiaries? Surely if it was necessary to renew this tyrannical bill it was necessary to accompany it with a statement of the circumstances which rendered it imperative upon government to continue it. If such a bill were to be carried at all, he rather wished that its provisions should be as odious and tyrannical as possible, because there would be the less chance of its becoming a permanent measure. He well knew that a great part of the House had such confidence in the integrity, talent, and eloquence of the noble lord, that, if he wished to make the Alien bill permanent, they would think it a matter of public expediency to accede to his wishes. The country might therefore consider it as an instance of the noble lord's moderation that he called for its renewal only for the space of two years. He, for one, thought it ought not to be renewed for a single moment. With respect to the constitutional grounds of the measure, he thought no man could do credit to himself or good to the country by looking back for precedents in its justification to the age of the Tudors. The practice of that age was inconsistent with the liberties of the country, and deserved to be held up to execration [illegible] than example. He would look only for authorities to the time of the Revolution, and to subsequent periods, and he was prepared to contend that the Crown never had the prerogative which enabled it in time of peace to dispose of the persons and liberties of aliens in the manner in which government was empowered to do by the provisions of this Bill.

Mr. *Wellesley Pole* said, he should not trouble the House at any length upon the merits of this question, but he could not forbear making some observations upon what had fallen from the hon. and learned gentleman who had just sat down. That hon. and learned gentleman had intimated that a suspicion existed in the country that the ministers did not intend to act with the utmost justice and delicacy towards her majesty. The hon. and learned gentleman who had proposed these clauses, and whose talents, eloquence, and candour, he admired upon all occasions, had however stated, that no such suspicion existed in his mind. The hon. and learned gentleman who had just sat down asserted in round terms that a proof of the suspicions which the public entertained of his majesty's ministers was to be found in the outrageous violence which had been exhibited at Dover towards certain individuals who landed there, because it was supposed that they came for the purpose of giving evidence on the approaching important state proceeding. Did the hon. and learned gentleman call that act the expression of public opinion? It was the act of a rabble. He (Mr. W. P.) readily allowed that the rabble were hostile to the present administration. He hoped they always would be so. It was a proof that the present administration had acted with energy, and had successfully supported the dignity of the Crown and the interests of the country. But, on account of this abominable and scandalous outrage which the hon. and learned gentleman chose to consider the expression of public opinion, the House of Commons were called upon to throw a slur on government, in the face of the public and the world, by indicating such a suspicion of government as to withhold from them the powers with which they had formerly been entrusted. He wholly subscribed to the declaration of his noble friend, that if his majesty's ministers were found attempting, what — not the hon. and learned gentleman himself, but, according to him, the public suspected they would attempt —if they not only did not take no means to prevent persons from coming forward to give evidence for her majesty in the pending proceeding, but if they did not give

every possible facility, at home and abroad, for the production of such witnesses, they would deserve to be driven from their offices with degradation and disgrace. He feared that he was intruding on the patience of this House. It was his apprehension alone which induced him to remain silent on former occasions, when the hon. and learned gentleman, and other honourable gentlemen accused ministers as if they were the vilest, lowest, and most incompetent of human beings. The hon. and learned gentleman had, night after night, called his majesty's ministers, a weak, vacillating, disjointed, wretched administration, incapable of conducting the affairs of the country, enjoying no confidence any where [Mr. Scarlett appeared to deny having used those terms],—The hon. and learned gentleman had a short memory. Did he say that he had not meant to describe ministers as a wretched, miserable, vacillating set of men? He should be happy to hear the hon. and learned gentleman disavow it.

Mr. *Scarlett* said he had no intention of disavowing it.

Mr. *Wellesley Pole* observed, that he had a right then to consider the hon. and learned gentleman as avowing it.

Mr. *Scarlett* allowed that his meaning had the tendency supposed by the right hon. gentleman, but trusted that he was incapable of using some of the words imputed to him. He had called the right hon. gentleman's colleagues weak, vacillating, and incapable of administering the affairs of the country in the present crisis. Their acts and measures fully justified his having so characterised them, and he would, so characterise them still. He said this without intending personal disrespect to any of the individuals of whom the administration was composed: but as a member of parliament, he was entitled boldly to declare his opinion of their conduct as a body.

Mr. *Wellesley Pole* was proceeding to make some further remarks on what had fallen from the hon. and learned gentleman, when

The *Speaker* interfered, and reminded the right hon. gentleman of the great inconvenience that might arise, were the rules of the House to permit any hon. member to refer to particular expressions used in former debates.

Mr. *Wellesley Pole* replied, that he should always bow to the chair with that respect which was due to it when it was filled as it was at the present moment.—Without, however, referring to former debates, he would advert to what the hon. and learned gentleman had pretty boldly stated in the present discussion. According to the hon. and learned gentleman, he (Mr. W. Pole) and his colleagues were now a vacillating administration, they were now an incompetent administration, they were now a disjointed administration. His majesty's present government were charged with wanting the confidence of the House and of the country. Who were they who so charged them? Had ministers never appealed to the House or to the people, that this absence of confidence on the part of both were so loudly asserted? He would state it hypothetically; if it had so happened that they had during the last few years made three or four appeals to the people, and had gained strength in every appeal—if such had been the case, with what grace could they be accused, after such an ordeal, of wanting the public confidence? If it had happened that, on a great question in the last session—a question which the leader of an adverse party had declared in a plain, open, country-gentleman-like manner, was a question whether ministers should stay in or go out, that wretched administration had beat their opponents three to one, would they then have been told that they wanted the confidence of the House of Commons? He had long wished for an opportunity of touching on these things. He would say nothing of the conduct of the gentlemen opposite during the late war. He would say nothing of their prediction, that not one of our soldiers would land in the Peninsula who would not remain there as a prisoner. He would say nothing of their unvaried anticipations of the triumph of Buonaparté. The public plainly saw that these men of genius—these animadverters upon the conduct of others, with all their talents and all their confidence, were eternally foiled, as he trusted to God they always would be; and that when they came to the point, they were wholly ineffective and feeble. He was sorry to see that what he had said had agitated the hon. and learned gentleman. He truly and conscientiously declared, that the only question for the House to determine simply was, if, by adopting the proposed clause, they would throw a slur on his majesty's government, which had not been cast upon them by any former House of Commons?

Mr. *Scarlett* rose to explain. With respect to the conduct of the populace at Dover, he had not intended to adduce it as the expression of the public feeling, he had merely mentioned it as having been first alluded to by the noble lord, with whom he would unite in condemning it as highly reprehensible and improper. What he had observed was, that a great many persons out of doors might entertain suspicions of the intentions of government, which certainly were not entertained by himself. He no more considered the sentiments of such persons to express the public opinion, than he considered the votes of that House to express the public opinion.

Mr. *Wellesley Pole* said, he understood the hon. and learned gentleman to say, that what passed at Dover was a manifestation of public opinion.

Mr. *Abercromby* declared, that if an opinion were to be formed of the talents, judgment, and discretion of the administration from the speech of the right hon. gentleman, those who opposed the administration could not wish that question should be put on a better issue. It appeared to him that his hon. and learned friend's proposition deserved to be received by the House of Commons with a far different temper than had been displayed by the right hon. gentleman. The object of the clauses proposed by his hon. and learned friend was, to secure to foreigners on coming to this country, ignorant as they must be of the nature of the constitution, of the feelings of the people, of the securities on which they were to depend, not only for their ease and comfort, but for their personal safety while in the country, such a certainty of being protected as would place them beyond all fear and doubt on that head. If the members of the House of Commons, satisfied with the knowledge of the British constitution, felt assured that there would be no danger attendant on the arrival of those witnesses, who would undertake to aver that similar feelings prevailed in the bosoms of men coming from a far distant country, to a nation which they looked upon with prejudices, to a people of which they entertained strange notions? That House might know that the power entrusted by the bill to government would not be abused; but how could that knowledge be conveyed to foreigners? On the recent landing of some foreigners the people of the place where they landed, with a feeling which he trusted was only local, took a course with respect to those persons that was in defiance of all law. How was it possible that those persons could find out that there were powers in the hands of the government which might justify them in discharging all apprehension of further outrage? If ever there was a circumstance which rendered necessary some additional legislative protection for aliens, it was the occurrence to which he alluded—an occurrence which he was persuaded no individual in that House or in the country, of a right way of thinking, could view otherwise than with detestation and horror. Of that occurrence no man with feelings of an Englishman but must wish that all trace could be blotted out. While he was speaking on this subject he begged leave to observe, that it was a pity that such persons as those of whom he had been speaking were left exposed to popular indignation; and that he conceived a better arrangement ought to be made with respect to them than to allow them to be driving about the streets of London at midnight seeking a place of shelter.

Mr. *R. Martin* said, with respect to the general question of continuing the Alien act, I vote for that proposition for those reasons that have been so ably urged by the noble lord. Now, as to the third resolution, which is supposed necessary to protect the witnesses of her majesty, I am compelled to give to that resolution not only my negative, but my hearty reprobation; and I do this more from motives of regard to the queen than of justice to the government. The object is not to prevent any foreigner in the interest of the queen from being sent away, for I am bold in this assertion, that her majesty the queen's defence will depend on those witnesses that are to be brought into the country through the exertions of the noble lord, and not on any now liable to the provisions of this act. Is there one man so lost to truth as to say, he doubts the assurance given, that my noble friend will exert every power, direct and indirect, to procure the presence of every person deemed necessary to the queen's defence. Again, is there a man who will not allow, that without such assistance it would be difficult at least for her majesty to be prepared for her trial. As the queen's friend (if I may be so bold), I do protest against this resolution, because it would surrender the effectual pledge already given, and substitute an idle, in-

operative clause in its stead, and this for the purpose of maligning government. I have heard much from the hon. and learned member of vacillation and incapacity in the king's ministers. The hon. and learned member is too good a patriot to plot the subversion of the present (incapable as he considers them) administration, without being prepared to propose a government ready to accept their situations. He, no doubt, is fully prepared to take his share in these new arrangements. However the modesty of men may make them doubt on some subjects, almost every man thinks he is born to be a prime minister. I remember a French hackney coachman accosted me thus—"What do you think of our foolish king"—(and he added a more degrading epithet to the queen's name. She, sir, was the most unpopular of the two. She and her royal consort were known to live happily with each other, and this rendered both obnoxious to the Parisian mob.) I replied to the man of the people, that I did not think any gentleman would consent to be their king. "I will charge myself to find one—I will propose myself at the next meeting of my section." I shall never forget the figure of this fellow—nothing like the caricatures we see—he was a plump, round, well-fed citizen, and looked more like an abbot of a convent than a meagre coachman. Those who hint that the exalted individual requires this fence for her protection, know as well as I do, that the most guilty foreigner would find protection from the government he outraged, the moment the queen's solicitors hinted he might be found necessary to her cause. If the government acted otherwise, her acquittal would be certain, and then the trials of the corrupt ministers would begin with a certainty of their conviction and punishment. I vote, then, against this clause, with a view to protect the queen, and to vindicate the nation from the unjust calumny it would inflict if agreed to.

Sir *J. Mackintosh* said, that in the few observations which he was about to submit, he should confine himself to that clause which had been chiefly discussed, and which he considered by far the most important of the three—he meant that which was intended to afford protection to the foreign witnesses for and against the queen. It was not his intention to attempt to follow the right hon. gentleman opposite through the various points of his speech—a speech distinguished by so much moderation, so strict an adherence to order, so complete an absence of unnecessary digression, so thorough a self-command, so abundant a portion of temper and discretion. As to the character of the present administration which had been given by his hon. and learned friend, of this he (sir J. Mackintosh) was certain, that if any man out of that House had been, during the last six weeks, asked that character, he must have replied, that it was a weak, vacillating, and disjointed administration. What else could be said of an administration that adopted an accusation against a high and distinguished individual one moment, and disclaimed it the next—that one day evinced a spirit of decided and unalterable hostility to that individual, and on the next willingly laid the majesty of parliament prostrate at her feet, in the hope, by conciliation, of effecting a compromise?—What else could be said of an administration that assembled the whole force of the House of Commons to sanction a proceeding unprecedented and dangerous—a proceeding which was as great an infraction of its principles as it was a degradation of its dignity,—a proceeding which exposed it to the risk of a greater outrage than it had been exposed to during the six centuries which had elapsed since its institution?—Under those circumstances there was no man, in the capital at least, who could describe his majesty's present government in other terms than those to which he had alluded, without subjecting himself to instant and hearty laughter; and he could assure the noble lord that such was the feeling out of doors, no less of those who sincerely supported the general measures of himself and his colleagues, than of those who were their determined opponents. The noble lord and the right hon. gentleman had altogether passed unnoticed the main argument which he (sir J. Mackintosh) had urged in favour of the proposed clause, namely, the necessity of removing from the aliens, who were summoned as witnesses on the approaching solemn proceeding, all apprehension that the powers vested by the bill in his majesty's government would be exercised to their inconvenience or disadvantage. He appealed to the House [illegible] argument had been so weak, so *prima facie* absurd, as to deserve to be thus passed over in contemptuous silence? And if not passed

over on that ground, the inference was, that it was unanswerable. The noble lord had charged him with not having alluded to the late conduct of the mob at Dover—conduct which, unquestionably, was most infamous and disgraceful. But that conduct was punishable by the law as it stood. It was punishable by preferring a bill before a grand jury. The attorney-general had sufficient means of prosecuting the perpetrators of that outrage. The interposition of the legislature was wholly unnecessary. If he (sir J. Mackintosh) were to meddle with the ordinary administration of the law in that case, he might be justly accused of needless, if not mischievous interference. And by whom had he nevertheless been called upon to interfere? By those who, in the last session, prevented parliament from inquiring into the most serious and important transactions, on the ground that it was inexpedient to interfere with the ordinary course of the law. He denied that the clauses which he proposed involved any reflection or insult towards government. Was there a single prerogative in the whole of our constitution against which our ancestors had not provided securities? Were those securities considered to be insults? According to the principle of the noble lord, the Habeas Corpus act, the Bill of Rights, and every other provision which parliament had made for the maintenance of the liberties of the people—nay, our liberties themselves, were so many insults to government. Such a principle was applicable only to such governments as those of Turkey and Algiers. Our most sacred and valuable laws were founded on jealousy of the Crown; but all these guards and securities of English liberty were proscribed and anathematised by the noble lord in a single sentence. So far from wishing to avoid such restrictions as those now proposed, it was honourable to every government to adopt them as a protection against their own weakness, and against the calumnies both of their malicious and of their just enemies. It was a false pride which, instead of taking that wise course, blustered and talked big of pledges to the public, and of insults sustained by the adoption of measures calculated to prevent the occurrence of abuses. The only sure way in which a government could show that it was determined not to abuse its power was, to submit to have that power restrained by the law. All other policy—all intimation of apprehended insult from the restriction of power, was hypocrisy when it proceeded from tyrants, and weakness when it came from those who entertained no bad intentions.

Mr. *Canning* said, he found himself in a situation of considerable difficulty; for if it was the privilege of a member, on moving a clause, to conclude the debate by a reply, as in the case of a motion, then he was precluded by the practice of the House from offering any observations in answer to those of his hon. and learned friend. As his hon. and learned friend's proposition was in the shape of an amendment, and not of an original motion, it appeared to him (Mr. Canning) that what his hon. and learned friend had just said could not be deemed a reply.

Sir *J. Mackintosh* begged to consult the Chair on the subject, and to be informed whether the moving of an instruction to a committee entitled the mover to the privilege of a reply.

The *Speaker* said, the original question before the House was, "that the Speaker do leave the chair;" and therefore, unless that motion were withdrawn, the proposed instruction must be considered an amendment.

Mr. *Canning* said, he only desired to set himself right with the House on this point; and to show his hon. and learned friend that he had no wish to take advantage of the right which the forms of the House allowed him, he should wait till the first of the motions had passed.

The *Speaker* said, that the question which he must first put was, "that the original words stand part of the motion;" and if, on that question, the House determined that he should leave the chair, the right hon. gentleman would have no opportunity of speaking on the question.

Mr. *Canning* observed, that as that was the case he would proceed, with the intention, however, of limiting his remarks within a very small compass. His hon. and learned friend had abstained from answering that which was transcendantly the most important part of his noble friend's speech—namely, that the proposed clause, was to prevent an abuse of such a nature that if his majesty's present ministers were supposed capable of permitting it, they were unworthy to remain for a single hour in that capacity, and ought not merely to be restrained, but to be driven with scorn and indignation from their offices. His hon. and learned friend had said, that he had drawn this clause

without consulting any one. Certainly his hon. and learned friend could not have consulted the hon. and learned gentleman near him; for that hon. and learned gentleman found in the character of his majesty's government a necessity which his hon. and learned friend disclaimed, for the enactment. That opinion of the hon. and learned gentleman would inevitably appear to the world to be adopted by the House if they sanctioned the instructions now proposed; for it was not to be supposed that the House could add such clauses without creating a suspicion in the minds of all men, both in this country and in foreign countries, that parliament thought ministers capable of abusing the power which the bill at present gave them. To the argument of his hon. and learned friend, that all power was by our constitution attended with securities against its abuse, the answer was, that against ordinary abuses every guard ought to be established, but that the abuse which the proposed clause contemplated was of so detestable a nature, that no legislature in a civilised country ought for a moment to anticipate its perpetration, but should look at in the same point of view as that in which the ancient republic had regarded parricide. If the proposition were made in tenderness to his majesty's ministers they did not thank his hon. and learned friend. If it were meant as a precaution to guard them against temporary suspicion, it was a precaution that must prove ineffectual.—If the clause were agreed to, and if, with other matters, the suspicion which either existed out of doors, or was to be created by the speeches within those walls, were to be made matter of history, what defence could the present ministers have against the charge, that they were so notoriously unjust, that parliament found it necessary to add a clause to the Alien act to prevent them from sending out of the country the witnesses which the queen might find it necessary to call in her defence? Ministers could not hesitate between the two kinds of suspicion. They preferred the present, knowing that they could guard against its continuance by their conduct—knowing they could confound and act it down; and that it would be much better and easier to do that than to incur suspicion for all time to come. He would not be betrayed by the retrospective view which his hon. and learned friend had taken of the proceedings respecting her majesty, into any detailed remark on the subject. He had hoped that, the period having arrived, when the painful subject which had so long agitated the public mind, was in a course of being settled judicially, that House would not, on any occasion, be dragged into any farther notice of it, until it should come regularly before them. It was not calculated to farther the ends of public justice, to calm the existing effervescence of feeling, or to qualify that House to perform the duty which might eventually devolve upon them, to debate, by snatches, the most difficult and delicate points of the question, and thus to keep alive a constant and injurious irritation. He would therefore confine himself to one single remark in his hon. and learned friend's speech. His hon. and learned friend's great accusation against the ministers of the Crown was, that having thought it imperative upon themselves, in the performance of their duty, to bring forward the charges which they had brought forward, they nevertheless, in defiance (according to his hon. and learned friend) of the principles of justice, and at the risk (according to his hon. and learned friend) of incurring a greater blot than ever had been thrown on the House in the annals of the country, did yield to the opinion of that House, expressed, if not unanimously, by a most commanding and unprecedented majority. His hon. and learned friend thought it matter of blame, that his majesty's ministers, having found it necessary (although with great reluctance) to bring the matter in question under the consideration of parliament, had nevertheless what he was pleased to call the weakness and the inconsistency to persevere to the last in endeavouring to avert what they themselves, what parliament, and what the country considered to be a great national calamity. To himself, he could assure his hon. and learned friend, that he took no blame for his share of the transaction. Undoubtedly, had the resolution to which the House acceded, been drawn and worded by his colleagues and himself, there were some expressions, some awkwardnesses which they would probably have omitted. But from that fact let this fair inference be deduced—that the resolution in question had not been submitted to the approbation of ministers; but that considering it to embody the sentiments of the House, although the words were not theirs, they thought that, to have considered them with criti-

cal severity, would have shown fastidious delicacy at the expense of that which they were convinced was sincerity of intention. Whatever might have been the effect of that attempt at conciliation, no man could say that it had not been made with earnestness—no man could say that in the mode adopted for its attainment, a cold niggardly parsimony of language had been fallen into. If the proceeding could be charged with any error in that respect, it was error of excess. Would to God that excess had been tenfold, so that the result had been more fortunate! But as that was "past praying for," he had the satisfaction to know that, so far from shrinking from the accusation of his hon. and learned friend, that they had deviated from the straight-forward path, his colleagues and himself, and more especially himself, to the latest hour of their lives, and whatever might be the result of the melancholy transaction, would feel a consolation which they would not exchange for any earthly advantage; that the last hope and chance of avoiding the menaced evil had been most sincerely tried.

The first instruction was then negatived without a division. The second instruction, excluding from the operation of the bill aliens resident in this country previous to January 1814, was also negatived without a division.

Sir *J. Mackintosh*, in moving the third resolution, begged to make one or two observations, in answer to what had fallen from his right hon. friend First, it was remarkable how strictly his right hon. friend applied the proposed resolutions as personal to himself and his colleagues. He seemed to consider himself and his friends as the permanent immovable administration of the country, and that every thing proposed was directed against them. Every measure which was brought forward, in opposition to their views or feelings, his right hon. friend appeared to consider as affecting them in a personal manner. Every measure which might even be thought to affect the hon. and right hon. gentlemen, however remotely, his right hon. friend seemed to think a personal affront, and a very ungentlemanly proceeding. The possible abuse of power generally seemed to be totally lost sight of. Among other things, his right hon. friend regretted that the subject respecting the queen should have been introduced into this question. From that discussion, however, he (sir J. Mackintosh) had hitherto abstained, and was determined most studiously to abstain, until fit occasion occurred to render it incumbent upon him to express his sentiments on the subject. But his right hon. friend had indignantly denied the charge of inconsistency which had been stated against his majesty's ministers. This charge of fluctuation and vacillation on their part, as connected with their support of an address, pending the proceedings, was established, he should contend, not only by facts, but by the admission of his right hon. friend himself; for his right hon. friend did allow that they had deviated a little from the strictness of the law, and the regularity of proceedings in this case; and what was this deviation but inconsistency? Her majesty was threatened with the severest proceedings on her arrival, and in three days after the House of Commons was prostrate at her feet. He did not mean to cavil with the words of the address to the queen. His objection to it was made on constitutional grounds, and he would venture to say, that at no former period of parliament had there been an address of advice or opinion to a subject. The ancient usage in this respect, like all the other usages of parliament, was founded in the purest wisdom, and proceeded upon this principle and reason—that if parliament offered, in the usual form, its humble advice to the Crown, and that without any effect, they might take the necessary remedial measures by proceeding against the advisers of the Crown. But, on the other hand, it was evident that in the case of a subject, the advice of parliament was liable to the indignity of being rejected, in consequence of which its determination and wisdom might be exposed to contumely and contempt; and it must be remembered, high as was her rank, that the queen herself was but a subject. He would venture to state that, from the return of the earliest, the most ancient writ, to the parliament of this country, it had never proceeded to advise a subject. There had been various addresses of condolence and congratulation to princes at different periods, but never until June 1820 was parliament known to have presented an address of advice to a subject. These were the grounds by which his vote against that address was actuated, and upon those grounds he founded his censure of the conduct of ministers, whose duty it was to protect the dignity of par-

liament. His right hon. friend had indeed asserted that the resolution was not the resolution of ministers. It was their resolution: it was the resolution of all who voted for it. He disdained any minute investigation into the construction of its sentences, he looked only to the principle upon which it was brought forward. The next observation which occurred to him was this—that his right hon. friend seemed to argue that it was proper to provide securities against the ordinary abuses of power, but not against those which were of a more serious and alarming nature. Now he begged leave to ask him whether any thing could be more truly horrible than the murder of an innocent man, and yet whether there was any thing which the laws of England had taken more jealous care to guard against than the putting to death an innocent person, under the forms of law? So, in the case of high-treason, he would ask again, what other principle had caused those multiplied and vigilant securities which invested the life of the subject but this—that where the Crown was the prosecutor, there the greatest danger of abuse of power existed? It had been wisely supposed, and humanely provided for, that the time might come—the ministers might be in office—the king might reign—when such a danger might be seriously apprehended. His right hon. friend had said that the existing laws had provided against all ordinary abuses; but the tenour of his argument was, that it would be quite uncalled for and affronting to provide against the more alarming encroachments of power. According to his right hon. friend's proposition, the necessity of a remedy was exactly in an inverse ratio to the magnitude of the evil. His right hon. friend thought parliament had no right to suppose, that it would be uncandid in them to imagine an administration capable of such acts as those against which his (sir J. M.'s) resolutions went to provide. He would repeat that it was against acts of the most monstrous nature that the constitution most strongly provided. Let his right hon. friend recollect the year in which the act for regulating proceedings in cases of high treason was passed. It was passed in the reign of that great man who rescued this country from civil and religious tyranny. The ministers of king William, instead of resenting the introduction of that act as a personal attack, or suspicion against them, considered it as an additional security for public liberty, and gave it their most cordial support. He would ask any one who had heard the arguments of his right hon. friend, however, whether the government of king William might not have advanced them with equal reason against the statute in question? Upon the same principle was the Habeas Corpus act introduced; it was introduced to prevent arbitrary imprisonment of the king's subjects, nor did the then ministers feel the introduction of such a measure as pointing suspiciously at them. His right hon. friend had urged, that if this instruction were not moved, his majesty's ministers would have an opportunity of vindicating themselves by abstaining from the exercise of the power vested in them. Now he denied that this would be the case. The evil of which he complained was not theoretical, it was certain. Foreigners came into this country with an impression that ministers had the power of removing them. They saw such a power daily exercised in their own countries, and naturally imagined that it would be similarly exercised here. This must produce a bias which would act in a hundred ways without any possibility of detecting it. On this ground it was that he felt it necessary to press the resolution, namely, "that it be an instruction to the said committee, that they have power to provide that nothing in this bill contained shall extend to any aliens who have come or who shall come into this kingdom, to give evidence for or against a bill of pains and penalties now pending against her majesty the queen."

Mr. *Canning* said, that his hon. and learned friend, in alluding to the administration of king William, and to the ministers under whom the law of habeas corpus was enacted, had asked, whether they might not have met the great measures which had been alluded to in the same way as his hon. and learned friend's propositions had been met? whether the same arguments would not have been equally applicable in either case? He would answer no. But in the case of any measure directed virtually against a pending proceeding, and upon which the arguments (though not perhaps on the part of the mover himself, yet certainly on the part of those who supported him) were derived from the assumed character of the existing administration—for his own part, he could not think, that, in such a case, it was so monstrous for ministers to suppose (nor did he perceive how they could be accused of

being too sore, and too tenacious, or too much alive, either to their good or ill reputation, for supposing—for entertaining a little, a slight, passing, distant, shadowy suspicion;—that such a measure might, by possibility, be levelled against them. Another hon. and learned gentleman had spoken upon the question, with a peculiar confidence, as it were, of an approaching dissolution of the present administration; but, sanguine as that hon. and learned gentleman might be about the term of that dissolution, he could surely hardly expect that it was to take place by that day se'nnight. If his majesty's ministers were allowed liberty to act, they would have an opportunity of quelling suspicion; but if their hands were tied up, as they would be by the proposed clause, then they would have no opportunity of doing away with any insinuations thrown out against them.—There was another point in his hon. and learned friend's speech, to which he wished to advert. His hon. and learned friend seemed to think that he (Mr. Canning) had admitted some degree of vacillation and inconsistency to have been manifested in the conduct of ministers by reason of their having brought down a proposition of their own, and afterwards supported,—what? a motion of their own too?—No; but one originating in another quarter, and to which they could only be considered parties in so far as they formed a part of the majority by which the House had agreed to it. That support they gave, in the same spirit in which they had for months and months previously been acting. They had acted altogether, in the matter in question, under a necessity which seemed to them to be paramount and overwhelming. The course they had pursued, and in favour of which they so relinquished the discussion of their own proposition, was suggested, hon. gentlemen must well know, by the most respectable authority, and confirmed and sanctioned by a commanding majority of that House, to whose expressed and decided feeling upon the subject they had (not too much confiding in their own judgment, but finding it to be in unison with that of parliament) paid that deference and respect which it was proper for them in all possible cases to pay. The proposal which had been made was made in order, if possible, to avert the necessity of all painful inquiry; and would to God that that proposal had been attended with the desired success. He was sure that it would have been much more conducive to the peace and tranquillity of the country than the measures now unhappily forced upon them.

Mr. *Scarlett* confessed that he really did not know what expression of his had warranted the construction which the right hon. gentleman had put upon his words. He might be allowed to say that he had himself a little stake in the property, and could not therefore be indifferent to the welfare of the government of the country; but no man was ever less sanguine than himself in expecting, or thought any thing less likely to happen, than the dissolution of the present administration; for he thought they would not dissolve until the country did; and that the country would be dissolved by them; and no doubt had he but many persons would support them until it came to that crisis. He denied that any paramount necessity had been imposed upon ministers to adopt that course of proceeding on account of the mere circumstance of the queen's return, which the right hon. gentleman himself had so feelingly lamented, or to put the parties in that state which the whole country so deeply deplored. It was in this view that he had characterised the present as a weak administration. What other epithet could justly be applied to them? He contended, that the moment his majesty's ministers had admitted that great question to be one capable of negotiation, they had themselves given the lie to those who had maintained that a paramount necessity existed for following the course that had previously been taken. If any gentleman was of opinion that he, in the warmth of debate had shown any prejudice or party feeling on the subject, he wished to set himself right. He could assure the House, that he entertained no such feeling. He wished to see justice impartially done. He could not help stating, that he felt compassion, strong compassion for the situation of her majesty, but he also entertained a strong feeling, for the peace and tranquillity of the country, which he conceived were endangered by the proposed investigation.

Mr. *Denman* observed, that when he entered the House, he had no idea that the resolutions now before the House were to be proposed. But he could not help stating the reasons urged in support of that clause, formed a strong ground against the existence of such a bill, and unless the

paramount necessity of such a measure, from 1792 down to 1820, could be shown, it ought not to be proposed; at all events, at a period like the present. It was not, however, for this purpose that he rose. He rose for the purpose of entering his protest against the statements of the right hon. gentleman opposite, who contended that the proceeding now pending against her majesty was a necessary consequence of the failure of the address voted to her. He did not mean then to enter into the prudence or imprudence of the late address to her majesty, but he protested in the face of the House and the country, that it was proposed not out of regard to her majesty's interests, but because parliament had no taste for entering into a discussion where the Crown was a party, and when they believed in their consciences that the Crown was in the wrong. If it was fit for the queen to be advised on the subject of the liturgy at a time when she had no responsible advisers—indeed when she had none other than her own lofty and honourable mind—it was equally fit that the House, if it really believed that the expunging of her name from the Liturgy was a proceeding contrary to law—(and he had yet met no lawyer in either House who had attempted to say that it was legal)—if it thought it a proceeding contrary to the principles of Christianity, and to the feelings of a gentleman and a man it was equally fit that the House should pause, and refuse to proceed further in a course which he was sure its own feeling would not excuse. It became it to protest against the impropriety of proceeding upon the depositions contained in a sealed bag—depositions of witnesses whose names were not known, and of which some might not be signed. That inquiry had, however been entered into, in another place. He knew not what the House of Commons would have done had the inquiry been persisted in, but he did hope that there would not have been found among them any twenty-one gentlemen base enough voluntarily to offer themselves to enter into an examination of the disgusting statements contained in the green bag, into papers without a name, and unsupported by any authority. He was confident that the House would take it as a compliment from the noble lord that no such proposition had been made to it.

The *Attorney-General* knew not what information the hon. and learned member possessed, upon what authority it was that he founded his statements respecting the contents of the sealed bag, or how he could so positively attest that that evidence was unfounded and unworthy the attention of the House. But he must observe, and the House and the country ought to feel, that whenever parliament entered upon that inquiry they ought to do so with unbiassed minds. It was strongly urged on the other side of the House, and he fully concurred in the observation, that the queen ought to have the full benefit of being presumed innocent until proved guilty; but on the other hand, he protested against the doctrine of declaring the queen innocent and her accusers guilty before any thing was known of the nature of the evidence against her. This was not the way to carry unbiassed minds to the investigation. His mind was perfectly free from any bias, yet he could not believe that the accusations had been made against her majesty without having any foundation for them. He must here observe, that a great deal of irrelevant matter had been introduced into the question before the House. The question before the House, and to which he begged to call their attention was, whether, on the renewal of this bill, a clause was to be introduced which showed that his majesty's ministers were viewed with suspicion by parliament—his hon. and learned friend might shake his head, but such was the impression which the clause would create in the public mind. He admired the reasoning of his hon. and learned friend. But were the Habeas Corpus act, and the other acts to which he alluded proposed, like the present resolution, at a period when the cases to which they referred were pending, or with the avowed purpose of marking a suspicion of ministers? On the second reading of the bill, however, it was conceded that the power of sending aliens out of the country should reside in the executive; and it was now too late to take an exception to its use as directed to a particular case. On this ground it was that he felt it necessary to oppose the instruction.

Mr. *J. P. Grant* said, it appeared as if the ministers thought they were for ever to be continued as such; or, at all events, during the proceeding against her majesty. But whether that might be the case or not, of one thing, at all events, he was sure, that in conferring such a power on his majesty's ministers, they were con-

ferring a most monstrous power. On the subject of her majesty he had abstained from offering any opinion; when properly called on he should state that opinion impartially; but as to the improper conduct alluded to at Dover, he felt it was alien to the disposition of the English people to prevent the fair administration of justice, which must necessarily result if witnesses were to be ill treated, or deterred from giving their evidence on the points to which they might be called.

Sir *James Mackintosh* said, he merely rose to disavow all personal suspicion of the ministers, while he begged leave explicitly to avow a constitutional jealousy of the power now vested in them.

The instruction was then put, and negatived without a division; and the bill went through a committee.

Barrack Agreement.] On the motion for bringing up the report of this agreement,

Mr. *Calcraft* begged to call the attention of the House to a subject which came to his knowledge on Saturday. He understood it was intended to build barracks in the Regent's Park for 437 men of the Life-guards, in lieu of the barracks in King-street, Portman-square. That fit barracks should, if necessary, be built, he had no objection; nor had he any that the Regent's Park should be the spot selected. But he thought the terms upon which those barracks were to be erected rather novel. The expense of erecting them was to be defrayed by annuity. The reason for this was, that the sum paid for the buildings now occupied by the soldiers was 5,400*l.* a year. Upon this sum the builders were to have an annuity for 31 years. So that at 5 per cent. interest these barracks would cost 84,000*l.* and upwards. Now the barracks at Glasgow, for 348 men, were to cost the public 15,000*l.*; and those at Leeds, for an equal number, 28,250*l.* And yet, though the ground in the Regent's Park would cost nothing, yet for an additional 100 men, there would be an extra charge on the public of 60,000*l.* His objection was not so much to the largeness of the sum as to the principle. He thought this required explanation. He understood that the barracks were actually begun. If so, the right hon. gentleman had much to answer for, as the House had not voted a single shilling for the purpose, nor had parliament even been consulted upon it. It was said that they had already voted the 5,400*l*; but then they had only voted it for one year, and that, too, only to pay the lodging money for the troops.

The *Chancellor of the Exchequer* said, he considered there was a good reason for accepting of the contract before them. If the regiment in question were to have been removed from London, it might perhaps have been argued, that so large a sum should not have been expended for their accommodation But if any garrison whatever were to be kept in London, the Horse-guards surely ought to be preferred, their good conduct being justly admired and praised. It was about eight years ago since a proposition for building a barrack for that regiment in the Regent's Park had been made; the estimate of the expense amounted to 120,000*l.* The estimates made by the surveyor of the barrack board, on the plan now proposed, did not amount to more than 70,000*l.* The annuity proposed to be paid by government to the contractors of 5,400*l.* for 31 years, would amount to 70,000*l.* and after the expiration of that period the barracks would become the sole property of the government, and the annuity of course would cease. He allowed, however, that the matter was not publicly advertised.

Sir *J. Newport* strongly condemned a proposition of this sort having been introduced at the close of a session. He condemned the mode proposed as changing altogether the principle upon which the country had heretofore acted with respect to barracks. The right hon. gentleman had said, that if the House should not approve of paying an annuity of 5,400*l.* they might build the barracks at an expense of 70,000*l.*; but the House had not determined to build any barracks at all; why, then, should ministers take it for granted that the House would approve of the building of those barracks? He could not but protest against ministers taking the opinion of parliament for granted.

Mr. *Williams* did not see any reason why this regiment should have been quartered at London. If ministers would look at Croydon, they would find barracks there, built at great expense, almost entirely empty. He saw no reason for going to the enormous expense for the erection of new barracks.

Mr. *Ellice* intreated of the House to reflect on the consequences which might follow the barrack system—they might

shelter an armed force, which could be turned as a means of attack upon the people. He entreated the House to consider how far they would go towards the creation and support of a military government, which they might afterwards vainly deplore, as fatal to the liberties and happiness of their country. As to the financial part of the question, his objections to it were equally strong: it appeared to him as if ministers determined that the public expenditure was in no instance to be diminished, and that the calls for retrenchment were never to be attended to.

Lord *Palmerston* said, that instead of asking to raise a sum of 70,000*l*., his right hon. friend simply proposed to continue an annual existing charge of 5,400*l*. for thirty-one years, at the expiration of which, these barracks would become the sole property of the public. With respect to the other objection—if the erection of these barracks would have the effect of introducing one additional soldier into the metropolis, he might see some force in the objection, but not one single man would be added to the regular force in consequence of the erection of these barracks. The object of the work was merely to provide better accommodation for the soldiers, who were now in a most inconvenient state. The officers and the men were divided, whilst the latter had too much opportunity of mixing with the neighbouring inhabitants.

Mr. *Gordon* reprobated the grant, as one which must ratify an usurped privilege on the part of ministers, as well as sanction a most suspicious transaction. He objected to the principle laid down by the noble lord, as repugnant to that of our ancestors, who thought the best security they had for their liberties consisted in their maintaining closely the connexion between the citizen and soldier, and not treating the interests of one as separated from those of the others.

Lord *Binning* was surprised at the nature of the objection. Had his right hon. friend been compelled to ask a vote for a large sum of money, there would have been a colour for the opposition offered. Here it was proposed to effect a considerable object, by most convenient advances, from time to time, on a fair estimate, and finally the public would reap the advantage by having acquired a specific property in the buildings thus erected.

After some farther conversation, the House divided: Ayes, 48; Noes, 34: Majority, 14. The report was then agreed to.

HOUSE OF LORDS.

Tuesday, July 11.

PETITION FROM THE QUEEN FOR A LIST OF WITNESSES.] Lord *Auckland* said he had a petition to present from her Majesty, which prayed that she might be furnished with a list of the witnesses which it was intended to adduce against her. He now moved that the petition be read, and intended to propose that it should be taken into consideration on Friday next, the day on which the motion of a noble and learned lord which had the same object, was to be made. The petition was read by the clerk as follows:

"The queen having received information from the House of Lords that the second reading of a bill for the degradation and divorce of her majesy is fixed for the 17th of August next, and deeming it essential to her defence that she should be furnished with a list of the witnesses intended to be examined against her, desires that such list should be forthwith delivered to her majesty's attorney-general."

The Earl of *Lauderdale* suggested the propriety of appointing a committee to search for precedents, not only with respect to the giving of lists of witnesses in analogous cases, but with respect to the whole proceedings.

The Earl of *Liverpool* said, he had no objection to the appointment of a committee, but as it would be essential to have a report respecting any precedents for the communication of a list of witnesses, before Friday, when the question was to be discussed, he thought it desirable that the committee should be confined to that point, at least, in the first instance.

Lord *Holland* would willingly concur in the proposition of his noble friend to search for precedents; but if they were to look for what had been done on bills of attainder and bills of pains and penalties, he thought it necessary, to enable their lordships to form a just opinion of the precedent, and to give satisfaction to the public, that the whole of the proceedings on such bills should be reported. Perhaps, as a member of that House, he might have reason to feel some humiliation from the report of a committee appointed with such powers; but he was anxious that substantial justice should be done. He must object to a mere report

on precedents, when, if the whole proceedings connected with them were explained, these precedents would rather serve as warnings to be avoided than as examples to be followed.

The Earl of *Lauderdale* wished the power of the committee to be as extensive as could be practically advantageous to the object in view.

The motion suggested by the earl of Liverpool, namely, that a committee be appointed to search for precedents relative to the delivery of lists of witnesses, was then reduced to writing by the clerk.

Lord *Holland* said, he objected to it. Their lordships ought to know the whole proceedings relative to the precedent, to enable them to form an opinion respecting it. Bills of pains and penalties were in their nature exceptions from the ordinary exercise of the judicial functions of the House. On such proceedings their lordships might find themselves pressed by expediency to make rules for the occasion; for that reason he could not see how their lordships could be bound by a rule so made, without knowing the grounds on which it had been adopted. It would be most unjust to extract from such cases a particular part of a proceeding, and report it as a precedent by which the House ought to be guided in the present inquiry. Suppose, for instance, their lordships should be told by their committee, that bishop Atterbury had been refused copies of certain documents for which he applied; what respect would be due to such a precedent? The real fact was, that that rev. prelate stood in the situation of having the whole mass of the evidence intended to be adduced at the time of his application before him. The charge had gone through the Commons before it came to that House, and of course he was acquainted with all the particulars when he applied for papers which had been laid before a secret committee. The principle of the refusal was, that those papers which had been referred to their lordships' committee were not likely to be used against him, as he was to be tried on the charges from the other House. He did not know that it was necessary to have an examination of the Journals at all; but if the search was to take place, the whole proceedings relative to any precedent referred to, must be reported. Their lordships would not do justice to themselves, if the report was not such as to give every individual peer the opportunity of judging of the application of the precedent. For these reasons he would vote against the motion in its present form.

Earl *Bathurst* would agree to a motion to search for precedents for the purpose of ascertaining if it had been the custom to grant lists of witnesses in cases of bills of pains and penalties, and, he would add, of impeachment.

The question was then proposed from the woolsack, on the motion to search for precedents, as amended by earl Bathurst, when

Lord *Holland* again objected to the motion. He thought, if their lordships searched for precedents on one point they should search for them on all. To search for precedents in one case of an anomalous proceeding, and to be guided by those precedents, without taking into view the irregularity of the whole proceeding, might be doing an act of injustice. When their lordships, therefore, departed so much from the rules of their own House in cases of judicial proceeding, and from the forms of common law, as they did by the bill before the House, they ought to be guided not by precedent or form, but by the rules of justice. The moment they proceeded by a bill of pains and penalties they departed from all the analogies of law in the case of the prosecution, and therefore ought not be guided by them in that of the defence. Their lordships well knew that if it was not regular to grant lists of witnesses in proceedings by a bill of pains and penalties, so neither was it regular to proceed by the report of a secret committee. It was therefore, contrary to justice to look to forms when they professed to be guided by no other compass than what seemed reasonable, right, and honourable to their own minds. He would say that so little was parliament guided by regard to precedents in bills of pains and penalties, that no three cases would be found to follow the same rules. He would repeat, that from the moment their lordships proceeded by bill they deserted precedent, and should afterwards be regulated by what was agreeable to justice, and not be fettered by what was conformable to usage. The noble earl at the head of the Treasury had candidly observed, that the question was, whether her majesty should be allowed a list of the witnesses in the first instance, or whether after the evidence of the charge had been heard, an interval should be allowed her for making her de-

fence, with a knowledge of the evidence which she had to contradict or invalidate? If precedents were to be searched for, therefore, they ought to extend to this point, and all others connected with proceeding by bill. If there was a committee appointed, it would not, therefore, have his concurrence, unless its inquiries were to be more extensive than those proposed for it.

Lord *Auckland* declared, that his vote on Friday should be guided by a wish to see substantial justice done. The House had hitherto proceeded in an unprecedented manner; and if the granting of the list of witnesses was to be refused on the ground of precedent, he wished their lordships had been equally alive to the consideration of established form when they appointed their secret committee. If their lordships were to disregard rule on the side of the prosecution, they should take care that substantial justice was done without regard to form in granting facilities for defence. He was against the motion, unless it was made to include an inquiry into all the proceedings relative to bills of pains and penalties, as well as into the point of granting or refusing a list of witnesses.

The House then divided on the amendment of lord Bathurst: Contents, 18—Non-contents, 10—Majority 8.

HOUSE OF COMMONS.

Tuesday, July 11.

GRANTHAM ELECTION.] Colonel Wodehouse informed the House, that the Grantham borough election committee had determined, that James Hughes, esq. was not duly elected. That the last election for the said borough, so far as relates to the said James Hughes, esq., is a void election. He further informed the House, that the committee had come to the following resolutions: "1. That it appears to this committee, that, at the last election for the borough of Grantham, James Huges, esq, by sundry acts of treating, did act in violation of the statute of the 7th of William 3rd, cap. 4, whereby he is incapacitated to serve in parliament upon such election. 2. That a practice has subsisted for several elections, in the borough of Grantham, of paying sums of money to the out-voters, under colour of indemnifying them for loss of time; and the committee are of opinion, that the said practice is highly illegal, subversive of the freedom of election, and tending to the most dangerous corruption." Dr. Phillimore gave notice that he should to-morrow submit a motion on the subject of this report.

OPHTHALMIC INSTITUTION.] Mr. *Bennet* said, there had been a misrepresentation in the Morning Chronicle with regard to what had passed the day before in that House, on the subject of the Ophthalmic hospital. A long speech had been made for his hon. friend the member for Cork, in which his hon. friend was represented as referring to what had fallen from him. Now, of the whole matter thus imputed to his hon. friend not above three sentences had been uttered by him, and these were incorrectly stated. He himself had not said that his former opinion was erroneous; and all he did say was that three medical persons had dissented from the opinion of sir W. Adams. He certainly had recently visited the hospital, and found only 69 patients. Three only were dissatisfied with their treatment; but it was, as he understood, without reason.

COMPLAINT AGAINST "THE MORNING HERALD."] Mr. *R. Martin* said, he was sorry to trouble the House with any thing that referred personally to himself. On a former occasion he had brought under their notice a breach of privilege with which his name was connected in "The Morning Herald" newspaper. At that time he had refrained from making a complaint, and merely mentioned the subject by way of admonition. He had afterwards seen the gentleman, who avowed that he was the person who reported his speech on that occasion. Indeed, the gentleman, when he spoke with him, talked of his situation and condition very unreservedly. But he (Mr. M.) was not prepared to put the matter to issue on the principle of a trial by battle. The gentleman used the following expression;—"In future, Mr. Martin, you shall have no cause of complaint; we shall lay down the pen when you speak." What he said then was, that he should be very much obliged to him not to report his speeches at all, if they were to be done in the way he complained of. In the same paper of this day the reporter had made him utter sentiments which it would not become any man to use who was not a fit subject for a certain receptacle. In consequence

of this repetition of offence, he was under the necessity of moving, that the printer and publisher of the paper in question be ordered to attend at the bar. The hon. member then handed The Morning Herald, containing the passage he complained of, to the clerk at the table, who read it as follows:—"Mr. Martin, of Galway, compared the opposition gentlemen, who were attacking the ministers for the purpose of getting into their places, to a big-bellied hackney coachman whom he once met in Paris, who spoke in disrespectful terms of the king of France, and said he himself would make a better king if put in his place." He then moved, that J. Robeson, the printer, and T. P. Glassington, the publisher, be ordered to attend that House on Friday.—Ordered.

THE QUEEN'S COUNSEL.] Mr. *Brougham* said, he wished to bring under the consideration of the House, a matter immediately falling within the scope and intent of two of its standing orders. With a view of protecting themselves against great abuse, every member of that House had been prohibited, by those standing orders, from attending as counsel at the bar of the House of Lords. The first standing order referred to common law proceedings, and the other to judicial proceedings by bill. These rules were laid down at a period when it was necessary to raise their privileges to a high ground, and the practice had been during the last century, ever since the year 1710, for members of that House to attend without let or hindrance, in their professional capacity in the House of Lords. This, however, had not been the case with respect to bills; and for the best reason—because those bills had been or must come before them as members of parliament. Still, if the principle were extended to all cases whatever, great inconvenience must arise—an inconvenience that must be obvious from the mere etiquette of the profession. Another purpose for which the standing order was framed was to guard against an improper influence with respect to private bills exercised in the other House by the members of that; and he certainly had no wish to open the door wider than it now stood for the admission of such bills. His proposition now was, that the case he had to submit furnished fair ground for an exception to the rule. It was on behalf of her majesty's law officers that he made his appeal; and it was in respect of their being so, and of a proceeding by bill having commenced against her majesty in the other House, where she had no officers, and where it was therefore the question whether she ever should. His majesty the other party, had his ministers in that House; he had his household officers; but as the bill originated there, and the queen had no person who could act as the nominee of a committee, she was left under peculiar disadvantages. Supposing too, an event which he could not anticipate—that of the bill coming down to that House—he should have to request for himself and his learned friend permission of the House not to vote on any stage of it. He should now move "That her Majesty's Attorney and Solicitor General be at liberty to attend the bar of the House of Lords as counsel for her Majesty."

Lord *Castlereagh* thought the House ought not to be called on to decide upon such a motion *instanter*. Some notice ought to be given, as it appeared to him to be a question that well deserved consideration.

Mr. *Brougham* said, he was sorry that it should be viewed in that light; he had himself deemed it a matter of course, and had not anticipated any objection. The consequence of not acceding to his application would be, that no member of that House would hereafter appear in cases of appeal or writs of error at the bar of the other House, as, in duty to his client, he should feel himself compelled to enforce the standing order upon every occasion.

Mr. *Wynn* said, there were two standing orders—one passed in 1666, and the other in 1669—relating to this question. The first provided, that no member of the House of Commons, and who was of the long robe, should act as counsel before the Lords; the second reserved to the House the power of granting exemption. The present case seemed to present sufficient ground for exercising this power, provided an entry was made on the Journals of the special circumstances attending it. He agreed, however, with the noble lord, that it would be better to give some notice.

Mr. *Brougham* said, if it could not be regarded as a matter of course, he would give notice for to-morrow.

Sir *F. Burdett* said, they ought to take care that they did not surrender their just rights by a partial proceeding. He under-

stood his majesty's attorney-general was commanded by the House of Lords to attend, in order to conduct the prosecution. Certainly, the same course ought to be adopted towards him that was meant to be pursued with reference to the Queen's legal advisers.

The notice of motion was then entered for to-morrow.

EDUCATION OF THE POOR BILL.] Mr. Brougham brought in his bill, "for better providing the means of Education for his Majesty's Subjects," which was read a first time.

Mr. *Brougham*, in rising to move, that it be read a second time to-morrow, said, he wished to notice, and to allay an alarm which, he understood, his bill had excited amongst two very numerous and highly respectable classes of his majesty's subjects—the Protestant Dissenters and the Roman Catholics. The House would hardly believe the extent to which this alarm had gone, especially when they recollected the observations with which he had introduced the plan. It was supposed, in consequence of the system being connected with the Protestant ecclesiastical establishment, that it was intended to compel children of various denominations to attend Protestant worship. This feeling had operated so powerfully, that some members of these two respectable bodies had addressed queries to him on the subject. It was asked by one party, whether it was not true (a point, he begged leave to observe, directly contradicted by the report) that it was intended to compel Roman Catholics to send their children to Protestant schools and Protestant worship? and certain dissenters seemed to consider this as a bill introduced for the purpose of "rooting out the last remains of religious liberty in this country." With respect to the Test act, as it affected dissenters, he would offer no observations on this occasion. But he thought the expression "to root out the last remains of religious liberty in this country," was exceedingly strong, when the dissenters were allowed, by an annual indemnity act, to get rid of the sacramental test. He would, however, tell those individuals, and if any of them happened to be present, he hoped they would recollect the declaration, that there was not a man in the House, nor in the country, more decidedly adverse to any thing harsh or intolerant than he was. Nor was there an individual who had a stronger dislike to tests, except where their abrogation might interfere with the existence of the government. He was the last man to keep up tests, unless they were absolutely necessary; and much less would he assist in extending them.—He would now state, that he had omitted in the present bill the sacramental test to schoolmasters, which he had originally contemplated. The bill still provided that the schoolmaster should be a member of the established church; but it dispensed with the ceremony of his receiving the sacrament a month before his election. He made this alteration, as he knew persons who were averse from taking the sacrament (not from any objection to it, but, on the contrary, from a reverence for the ceremony), because they did not think it was fitting to receive it as the passport to a civil office. Making every allowance for the conscientious scruples of those individuals, on the point he had stated, he had consented to give up that part of the bill. He could assure those most worthy and respectable. and infinitely-respected friends to religious liberty, the Protestant Dissenters of England—whose regard for civil and religious liberty was only equalled by their loyalty to the Crown, and their good disposition towards the constitution as by law established—that he had neither done nor said any thing that could form a just ground for such an alarm. He had deemed it necessary to observe thus much, in order to prevent the possibility of misrepresentation.

Mr. *W. Smith* said, he had no doubt that what his learned friend had stated with respect to the feeling of the Roman Catholics was true. But, if it were not for his learned friend's declaration, he should have conceived it impossible, looking to the feeling which pervaded the House, that the Roman Catholics could have adopted such a monstrous idea as that Protestant schools were to be established, and that they would be obliged to send their children to those schools. His learned friend had neither said nor insinuated any such thing, but the very reverse. With respect, however, to the Protestant dissenters, he was well aware that much alarm prevailed amongst them as to the general structure and bearing of the bill. But that alarm had not, as far as he knew, induced them to go so far as to use the expression which his learned friend had quoted, or any thing like it. He knew

of no Protestant dissenters who spoke of this bill as introduced for the purpose of "rooting out the last remains of religious liberty in this country." He was connected with the most respectable and largest portion of that body, from whom in a day or two, he should present a petition, but not against this bill. They certainly looked at the structure of the bill with considerable alarm. The part of the measure which excited their alarm was that which imposed on the schoolmaster the necessity of taking the sacramental test, which was now abandoned. That their feelings were excited on this point was undoubtedly true. At such a moment it was natural that they should look with considerable alarm at any step taken by the House that was at all connected with the sacramental test.

The motion was then agreed to.

MOTION RESPECTING SIR MANASSEH LOPEZ.] Lord *J. Russell* rose, pursuant to notice, to move for an address to the Crown, praying his majesty to shorten the term of the imprisonment awarded to sir Manasseh Lopez. Some persons erroneously supposed that he wished to do away with the punishment altogether; but these individuals did not recollect that sir Manasseh had already paid a fine of 10,000*l.*, and had suffered imprisonment for eight months. Considering the amount of fine, and the imprisonment which sir M. Lopez had undergone, he now came forward to propose an address to his majesty, praying that the remainder of the sentence might be mitigated. In doing this, he wished to be understood as not meaning to impute any thing like injustice to the sentence itself, or to cast the slightest suspicion on the motives of the judges by whom it was awarded. The laws passed by parliament for the prevention of bribery and corruption proved the legislature to be so decidedly hostile to such practices, that, when cases of the kind came before the judges, he conceived it was their bounden duty to visit them with severity. That their judgment was correct he was bound to suppose, because nothing could appear before them except the mere facts given in evidence; consequently their sentence could not be affected by the state of public opinion or feeling at the time. But still cases might occur where the House would think that justice might with propriety be suspended, and the dictates of mercy be allowed to take their course. This was an instance in which it was impossible for the Crown, of its own impulse, to exercise the prerogative of mercy which properly belonged to it. The prosecution of sir Manasseh was undertaken by the desire of the House, and, in obedience to their wishes, he had been brought up for judgment. It was always admitted that sir Manasseh had a most extensive borough influence and connexion, which it was known he exercised for the support of administration. Under these circumstances it was impossible for ministers to interfere with the course of justice, by recommending to the Crown to remit a punishment inflicted in furtherance of a vote of the House of Commons; because it might be supposed, in such a case, that ministers acted from a desire to support an individual who had been in the habit of affording political support to them. It was, therefore, deemed better that the subject should be noticed by the House of Commons, they being the original prosecutors, and the body who brought down the ultimate punishment on sir M. Lopez. There were several reasons why the sentence of this individual should be rendered less severe. In the first place, the great age of sir M. Lopez, who was now in his sixty-fifth year. Two years imprisonment might naturally be supposed to comprehend a large portion of the remaining life of a man who had arrived at such an advanced age. This, he thought, was a circumstance that would induce every humane man to wish that his sentence should be mitigated, and that he should not be allowed to suffer a farther imprisonment of 16 months, since his life could not be calculated to extend beyond 10 or 12 years. In the next place, he believed sir M. Lopez to have been ignorant of the magnitude of the offence which he had committed. This was a circumstance that could not be pleaded in a court of justice; but here, he conceived, it might be alluded to with propriety, and without at all weakening the detestation which the House ought to feel at the commission of such a crime. An individual might come into that House and hear (from persons not of one party only, but of all parties, and of no party) the subject of bribing electors treated as a matter of common conversation. A man, ignorant of the serious nature of the offence, might be deceived by this familiar mode of conversation, and might in consequence be led

to look on the act of bribery as no very great crime. He did not mean to defend the course adopted by sir M. Lopez, though he might be allowed to say that he was, perhaps, not more guilty than other individuals, but that he had been less prudent; the consequence of which was, that he had been subjected to this heavy punishment. In making this observation he was borne out by facts. It was stated at their bar, last year, by a person who acted as solicitor for the members for Grampound, that 7,000*l.* were paid to prevent the petition against the members from being prosecuted. So that sir M. Lopez was sentenced to a severe punishment for bribery and corruption, while others, against whom the same conduct could be proved, by paying a large sum of money, procured a total exemption from punishment. The punishment of sir M. Lopez might be safely remitted to imprisonment for one year. He conceived a fine of 10,000*l.* and a year's imprisonment was a punishment sufficiently severe. With respect to the Grampound case, he wished that to be treated in another manner. He had unfortunately been prevented from going on with it, owing to the pressure of other and more important business. But if the House adjourned, the bill would continue in the same state, and he would certainly proceed with it as soon as possible. He would now move, "That an humble Address be presented to his majesty, praying that his majesty would be graciously pleased to shorten the term of imprisonment awarded to sir M. Lopez, who had been sentenced to two years confinement in the gaol of Exeter, in such manner and to such time as his majesty might think fit."

Mr. *Wynn* felt that it was extremely unpleasant to oppose a motion of this description, and to endeavour to thwart the disposition of lenity which the House might feel towards any particular offender. Every gentleman must wish to show mercy and forbearance, as far as justice would permit; but the case in point was not one in which consistently with their duty, with the forms of parliament, and with propriety, they could interfere. Cases might exist, in which the House might in justice be called on to advise the Crown to interpose, and to exercise its prerogative of mercy, in the same way as they might offer advice with respect to any other prerogative; for the House had a right to advise the Crown on matters connected with all its prerogatives. But sure he was, that if there were any one case to which the House should look with especial jealousy, it was where the prerogative of the Crown and the prerogative of parliament were likely to interfere with each other. The prerogative of mercy was, of all others, peculiar to the Crown itself; and, in this instance, he could see no ground for advising its exercise. The House did not know what had passed in the court of King's-bench; they were not present—they were utterly ignorant of the evidence on which the sentence was awarded—and yet they were asked to adopt a proceeding, the effect of which would be to alter that sentence. He was not competent to judge of the propriety of such a proceeding. The House, however, knew that the individual had been found guilty of bribery in repeated instances—no less than 18 persons had, he believed, been corrupted. The House had decided, when the verdict of a jury established such a crime, when a regular conviction took place before a criminal court, that then the offender should be brought up for judgment. The House could not be aware of all the circumstances of the offence; they could not be acquainted with the matters that had come out in evidence. He could not agree with his noble friend that this was a case in which the interference of the Crown was necessary. It was by no means an ordinary instance of corruption. It was not the case of an individual engaged in a warm contest, and betrayed by the impulse of the moment into an illegal act. Here was an attempt made by an individual to purchase a borough, not for himself, but with the intention of transferring it to another party for his own emolument and benefit. He deprecated any interference of that House with the province of courts of justice, and with functions which did not belong to it. It had become but too common of late on the part of the House to interfere in every executive department in addition to the discharge of those ancient functions to which it was the interest of the Crown as well as of the country that they should confine themselves. The House would do well not to adopt a motion which would serve to establish a precedent, that might naturally lead to similar applications for other individuals, which applications must produce great inconvenience to the House itself. It behoved the House then to guard against

such a course, as should this motion succeed, other individuals, in similar circumstances, would be apt to have similar motions made upon the speculation, that if such motions did not even produce their release, the discussion of them might contribute to their advantage.

Mr. *W. Peel* supported the motion, and urged, that the same measure of mercy should be granted to Mr. Swann, who had been lately re-elected to that House, in a manner that was equally honourable to his constituents and to himself. There had also been a serious calamity in the family of Mr. Swann, since his imprisonment commenced, which formed an additional claim to the generous consideration of the House. If some remission of his sentence were extended to Mr. Swann, it would, under such circumstances, be a most seasonable and acceptable indulgence.

Lord *Castlereagh* said, he was not quite sure, but he believed that this was the first time that a question like the present had been brought before that House. He believed that this was the first case in which that House was called upon to interfere with the exercise of the royal prerogative of mercy; and what had taken place in the course of the debate, seemed to show to what consequence the adoption of such a motion was likely to lead. The motion was no doubt honourable to the feelings of the noble lord, but the precedent was peculiarly to be deprecated, which the acquiescence of the House in such a motion was calculated to establish. It would better become the House to leave the prerogative of mercy where it was fixed by the constitution, and not to press a proposition of this nature. Whether the law should have its execution was the peculiar prerogative of the Crown, and the responsible servants of the Crown could not be justified in recommending the interposition of the royal mercy upon the mere suggestion of that House (he spoke it with perfect respect) any more than upon the application of the humblest individual in the land. Although feelings must always be excited corresponding to the circumstances of particular cases (and particularly ill health was calculated to excite commiseration), could they conceive a place where such feelings could be less properly expressed than in that House? The noble lord had not meant to make his motion of general application, but to limit it to this particular case; yet that case at once brought forth another. If an interference of this kind came to be once sanctioned, it would be thought a sort of personal reflection upon any person suffering the sentence of a court of justice, if he could not find a member in the House to bring his particular case under their consideration; and every one must be convinced that the noble lord's endeavours were not likely to be ineffectual, nor the expression which they had called forth from the House overlooked, if the Crown should be induced to reconsider the case; the necessity for which, however, as a matter of justice, he by no means admitted, and would not undertake to insure such an event. The noble lord would feel that the prerogative of mercy was placed in hands least capable of abusing it, and that would necessarily extend it with the greatest propriety, circumspection, and humanity. The Crown always attended to the recommendation of the judge—the best source of recommendation in such cases. He did therefore hope the noble lord would be satisfied with having brought the subject under the notice of the House, and he might feel assured that if the case should come under the consideration of the Crown, the conduct of the noble lord would not retard its interference, or operate disadvantageously to the individual. He hoped the noble lord would therefore withdraw his motion, having satisfied his feelings as he had done. No one who knew the noble lord could doubt that his interference had proceeded from motives of humanity.

Sir *T. Acland* felt desirous of establishing an inference that, whatever became of the motion, the Crown, in consequence of its having been made, would feel more at liberty to extend mercy respecting a sentence occasioned by the interposition of that House. It was that circumstance that distinguished this case from all others, and exempted the interference of the House from the character of strange anomaly which would belong to their conduct if they interfered with the royal mercy in general cases. In the present case the House had made itself the prosecutor—as far, at least, as the judgment went; and he hoped that the punishment would go far to prevent practices that tended to corrupt the country in the exercise of its best rights. He could not therefore understand why the House could not interfere as any other prosecutor might, for mercy. Another consideration, if not for taking away the crime, at least for

reducing the severity of the punishment, was the too common and shameful conversation in the country and in that House respecting the means used to procure returns of its members. The sense of the country was, that the measure of punishment in this case was severe. Undoubtedly the court had acted right in not noticing any circumstances offered in palliation; but it was not to be disguised that the punishment bore with undue severity on the present offender. The judges could attend only to the crime; that House, who knew the age and circumstances of the individual might view the case differently. The end of punishment was example, and perhaps enough had been suffered for the attainment of that object.

Mr. *Gurney* hoped that both the cases mentioned on this occasion would be attended to. Mr Swann's case was infinitely the strongest; he had been convicted only upon two counts out of twenty-three in the indictment against him, and that too in consequence of his not having pressed for the payment of a 20*l.* note which he held from one of the electors of the borough for which he was a candidate. But he put it to every gentleman who heard him, whether, on the eve of a general election he would attempt to enforce such payment from any elector of the place for which he proposed to become a candidate. It was also to be recollected that Mr. Swann was under the disadvantage of having his own counsel to plead against him, notwithstanding a special petition to the contrary, which was presented to that House. In Penryn the electors had been accustomed to get 25*l.* at a breakfast. If Mr. Swann was guilty of irregularities, they had been brought upon him by the practice of one who was not responsible, because not returned to that House. He hoped the Crown would take the two cases into its merciful consideration.

Sir *J. Yorke* concurred with the noble secretary for foreign affairs. The case of Mr. Swann was certainly the hardest.

Mr. *Money* said, that Mr. Swann had two children at death's door, upon whom he was incapacitated, by his imprisonment, from bestowing his attention at so awful a time. He would support the motion.

Mr. *Burrell* observed, that sir M. Lopez was overwhelmed with domestic affliction, which, with his confinement, had made a deep impression on his health and constitution, and had brought him near to the grave. As the end of punishment was example, he trusted that the House would feel that enough had been furnished by the confinement for a considerable period of a man of rank and property in a common gaol. He hoped that mercy would be extended to a person so circumstanced, and labouring, besides, under age and affliction.

Mr. *Abercromby* declared, that if the noble lord now found the way for mercy more easy, he had no wish to say any thing further; but that, if the question should come to a division, he should feel bound to vote against it. He wished the matter to be left with the Crown, and its responsible advisers. The grounds on which the motion was brought forward were not sufficient. A plea had been set up, that the offence was common. He did not agree in the propriety of it; but if it had weight, it should have been considered before the House proceeded to call upon the courts of justice to pronounce judgment. It was too much to say that that House, after having prosecuted, should turn round and say sentence should not be executed. He could not view any argument used on this question but as an impeachment of the sentence. It seemed to him, that it would be an act of extreme impropriety in the House to interpose, because no fact had been offered which was not known before. There was, besides, this material consideration—there was, on such prosecutions, nothing of willingness, either in the Crown or the judges, to proceed. It was generally conceived, that prosecutions ordered by that House were cases in which there was obvious reluctance in other quarters to proceed against the offence. If such were the general character af the cases, it could not be favourable to the interests of justice for the House to thwart the opinion of the judges in affairs submitted to them by the House. The whole argument resolved itself into a complaint of the severity of the sentence. He wished the House to remember the time when, in cases of libel, the punishment of imprisonment was inflicted for years upon years to a frightful amount; and yet no word of interference had been attempted in the House. He begged pardon, one member had ventured a word. The late Mr. Whitbread, of whom he could never think but with reverence and esteem, had incidentally mentioned one of those cases, and well did he recollect the exclamation of all against

such interference. It was correct in the House to express an opinion when there was an excess and abuse of authority; but he deprecated any interference with the province of the judges.

Mr. *Brownlow* disapproved of interfering with the prerogatives of the Crown. Though he felt how much pity was due to the case, he would oppose the motion; but he hoped the circumstances mentioned on this occasion would have their effect elsewhere.

Mr. *Canning* hoped that, when it was considered that this motion, if it failed, must become an impediment in the consideration of the case elsewhere, and if it was carried, must be fertile in occasioning questions of a similar nature, in that House, which was the most unfit place in the world for such discussions, the noble lord would be convinced of the propriety of withdrawing his motion. If there had existed any where an impression that an impediment arose from any prejudice supposed to exist in the House, that impression must be removed by the discussion that had now taken place, and the noble lord might believe that his motion had thus had sufficient effect. The removal of what was supposed to operate the other way he earnestly hoped would satisfy the noble lord, without pressing his motion to a division, which could not be beneficial.

Mr. *Grenfell* concurred with the right hon. gentleman opposite; and as there appeared to be an understanding, that due consideration would be given to the case of sir M. Lopez in the proper quarter, he hoped his noble friend would be induced to withdraw his motion. He also trusted that the case of Mr. Swann would be taken into consideration at the same time with that now before them.

Lord *J. Russell* said, if he understood the statement of the noble lord, this case was already under consideration [No, no]. Well, then, he must understand that whether his motion had been brought forward or not, there were at present no impediments in the way of taking the case under the consideration of the Crown. He was satisfied with this declaration. He stated at the commencement of his observations, that there were some obstacles and difficulties in the way of a fair consideration of this case by the Crown; but as the noble lord had assured him that those difficulties would be removed, he was ready to admit that the case would be much better taken into consideration in the quarter which had the power of mitigating the punishment, than in this House. Of this principle he had never entertained the smallest doubt, and he thought, therefore, that much of what had been urged by his honourable friends around him, might have been spared. He had certainly never intended to say, that in any ordinary case it would be proper for this House to consider whether mercy ought or ought not to be extended; but this was a case in which the privileges of the House were peculiarly involved, and in which the House therefore might have properly interposed. After what had fallen from the noble lord, he could have no objection to withdraw his motion.

The Motion was withdrawn.

MOTION RESPECTING SOUTH AMERICA.] Dr. *Lushington* said, it would be in the recollection of the House that he had given notice of a motion for the production of copies of any official communications relative to a negotiation between the French government and that of Buenos Ayres for the establishment of a Bourbon dynasty in South America. It appeared to him to be of very considerable importance, that those documents should be laid upon the table of the House. The documents alluded to respected a correspondence which had taken place thirteen months ago. Since he had given his notice, he had had time for reflection on the subject, and he was fully satisfied in his own mind that it was his duty not to postpone his motion, late as the period of the session was. If he could suppose that his motion would embarrass negotiations with foreign powers, he should be extremely sorry, however strong his political bias might be, to agitate any question that might prove detrimental to his country. The subject to which he alluded was an extraodinary production, originating with the secretary for foreign affairs in the French government, in May 1819. At the conclusion of the session of parliament, we had been assured from the throne, that "the most amicable relations were maintained with foreign powers. Yet at that very time was one foreign government devising a plan of the most insidious and unwarrantable nature, which if it would not subvert, would materially injure our commercial prosperity. At the very time when we were assured of the continuance of amicable relations with foreign powers was the secretary for foreign affairs in

France, De Cazes [Mr. Canning here expressed dissent across the table]—whoever it was, some one who had the authority of the French government—proposing that a Bourbon should obtain a throne in South America. The prince selected for this purpose was the prince of Lucca, nephew of Ferdinand 7th. The arguments by which the French minister recommended this proposition to the acceptance of the envoy from Buenos Ayres were most extraordinary. It was first stated that opposition might be expected from England, and that, therefore, all the arrangements must be held back, and kept perfectly secret from her. But all the other European powers, particularly Austria and Russia, were to be reconciled to this project by means of France. He did not wish to overstate the case, or to say that the other powers of Europe were actually parties to this project; but it was obvious that France could not have promised the assent of the other powers, especially of the illustrious sovereign of the Russian empire, if there had been no previous communication on the subject. France would not have presumed to act so, if she had not been conscious of the other powers being in unison with her. France must therefore have had their previous consent, including Spain. Then there was an assurance given that naval forces, and such land troops as might be required, should be sent to support the prince of Lucca, and to resist any forces that might be opposed to him. Now what state but Great Britain was there whose interference could be apprehended? It would be a waste of words to show that no other state could give any resistance. The envoy of Buenos-Ayres stated some objections so strongly, that France advanced further propositions as inducements to enter into this project. Among these were the marriage of the prince of Lucca to one of the princesses of Brazil, and the cession of the territory of Banda Oriental to Buenos Ayres. Great Britain, whatever might be her merits or demerits, was surely the last to deserve conduct like this from the French government. The document further stated the possibility of Great Britain wishing to place a British prince upon the throne of Buenos Ayres, and commented upon the evils and calamities which would result to South America from such an event. It contained an appeal to the religious feelings of the South Americans, and a long tirade upon the injury which the Catholic religion would receive from British interposition. He was glad to state, that the envoy for Buenos Ayres declined entering into any treaty to which the consent and approbation of Great Britain should not be a preliminary, because it was one of the many circumstances which proved the earnest desire on the part of the government of that province to conciliate the good wishes of this country. If the document to which he had alluded, and some others for which he should not now move, were laid upon the table of the House, he trusted he should be able to convince the House and the country that this government was imperiously called upon to acknowledge the independence of the states of South America. No European State, except France and Spain, had a right to interfere with the conduct which Great Britain might chuse to pursue as to the recognition of South American independence. Austria could have no right to make representations in such a case; and as he was satisfied that Russia was in the projected secret, she had forfeited all right of interference as to any proposition which regarded the recognition of the independence of the South American states. With respect to Spain herself, he really doubted—or, if he were to speak his own decided conviction, he should rather say he had no doubt—that she must have had some secret understanding with France on the subject of this proposed monarchy; for it was hardly to be supposed that the Bourbons would have ventured to enter into such a project without having previously sounded the feelings of that country. But be this as it might, even if Spain was a party to the negotiation, that circumstance was not to fetter the British government. How did the case at present stand with regard to the independence of South America? The subject had never been directly brought under the cognizance of parliament, though it had been incidentally mentioned when the Foreign Enlistment bill was discussed. He should therefore be glad to hear from those hon. gentlemen who had directed their consideration to this question, what their opinion was as to the obligations of other governments to recognize the independence of those South American provinces which had emancipated themselves from the yoke of the mother country. His own opinion on the subject was, that when colonies had once acquired independ-

ence for themselves, it was at the option of other governments either to acknowledge their independence or not, according to the views of policy which they might entertain. It was indeed a matter of pure necessity to make such an acknowledgment, on account of the great inconvenience and injustice that would otherwise attend the existence of an unsettled and unrecognized state. If it had not been for this principle, the independence of the States of Holland and of the United States of America would still have remained unacknowledged. How was it possible to carry on diplomatic negotiations or commercial arrangements with a government till its independence had been acknowledged? It was true that we had appointed a consul at Buenos Ayres, and that mercantile concerns were conducted as if we had recognised the independence of South America; but while treating the government of Buenos Ayres with this respect, while we had an accredited consul residing in that country, and while we maintained with them all the relations of trade and commerce, we were obliged to treat them also as pirates. So true was this, that at the present moment there was a proceeding going forward in one of our courts of justice, at the instigation of the king of Spain, the object of which was, to take from the independent cruisers the property they had captured, on the ground that they were pirates. He presumed there was no member of that House who, in point of political feeling, would not rejoice at the final success of South American independence; and if that were the case, and if neither the general principles of justice, which regulated the conduct of nations, nor any particular policy affecting this country, forbade us to acknowledge that independence, it remained to inquire if there was any treaty between Spain and England which bound us to abstain from making such a recognition. The only treaty of which he was aware, that could be said to have such an effect, was that of 1814, to which an additional article was annexed stipulating that we should not assist the South Americans with men, arms, ammunition, or warlike stores. He was happy to say however, that after all the consideration which he had given to the stipulations of this treaty, he was convinced that it bound this country to nothing but what its previously existing laws would have been sufficient to enforce: it did not bind Great Britain to pursue any line of conduct which would not have been equally imperative if no such treaty had been in existence. He had thus endeavoured to prove that neither the laws of nations, nor any peculiar relations between England and Spain, withheld us from recognizing the independence of South America, and he hoped he had said enough to show that both justice and policy dictated the propriety of making such an acknowledgment. The imbecility of Spain having come to that height that she was no longer able to govern her colonies, we were not bound to consult her wishes and interests, in violation both of justice and policy. In such a case, we were not to lie by till a more ambitious rival should step in, and secure those benefits which it was in our power to enjoy. If a prince of the House of Bourbon were placed on the throne of Buenos Ayres, could it be doubted that rigid commercial laws, injurious to the interests of Great Britain, would be the first and dearest object of the new dynasty? It was a curious circumstance that this negotiation was avowed to spring from the principles of the holy alliance. The basis of that alliance was the extinction of all the republics in Europe. The republics of Holland, Venice and Genoa were already extinct; and in the same spirit the continental courts had resolved to do away with the remains or rather the buds of freedom which now existed in South America. This was a proceeding which ought to excite the utmost watchfulness of ministers; and he was sure they would have cause to regret their conduct if they had ever approved of it. Upon the conduct of France it was scarcely possible to express himself in language which was too strong. After the waste of so much British blood and treasure, after the unparalleled exertions which this country had made to place the House of Bourbon upon the throne of France, scarcely was the signature of the treaty dry, which restored a second time to their feeble hands the sceptre which they had neither the wisdom to hold, nor the courage to fight for, when they turned round upon their benefactor, and inflicted an injury upon the country to which they were bound by every tie of gratitude. Britain had been a benefactor to the Bourbons; and though he did not say that they should on that account make any sacrifice of the interests of France, yet he would affirm that they were bound strictly

to observe all the obligations of honour and good faith in their dealings towards or in relation to Britain. We had a right to demand a conduct from the Bourbons completely the reverse of that which it appeared they had pursued in this transaction—a transaction in which the French government had acted treacherously and perfidiously towards England. But there still remained a few considerations to which it was necessary to advert. The United States of America were on the watch at the present moment; they showed no supineness, or neglect of their own interests, in the great transaction that was going on. They had sent persons into most of the provinces of South America, who had laid before the government of the United States all the information which they had been able to collect, both with regard to the political situation of the provinces, and to those points which related to commercial intercourse. The United States had two objects in view—the first, to obtain the Floridas from Spain; and the other, to cultivate a friendly intercourse with the South American government. Accordingly, no sooner had the first of these objects been secured, than a bill passed through the House of Congress, the object of which was to carry into effect the recognition of the independence of South America. On the motion of Mr. Clay, the lower House of Congress had voted a sum of money for the purpose of sending a minister to South America, and this measure had been declared to be only preliminary to a more formal acknowledgment of independence. Was it wise, he would ask, to allow the United States thus to have the start of us in establishing friendly relations and cultivating commercial intercourse with the government of South America? If we allowed this advantage to be gained over us at first, we should find it extremely difficult afterwards to introduce our commerce into the markets of that country. This was, indeed, one of the considerations that had induced him to bring forward his motion at the present moment, because in such a case, delay was ruinous, and there was no reason why we should not take advantage of the opportunity which fortune placed in our hands. It was not his purpose to enter into a detail of the advantages which would result from introducing our manufactures into that country on a better footing than at present existed. It was sufficient to state, that the population of the South American provinces amounted, at a moderate computation, to 20 millions of inhabitants, and that when the ports of Chili were opened, British manufactures had at once been introduced. It appeared from the report of Judge Bland, one of the commissioners employed by the United States, that silver utensils were commonly used, not from choice, but from the want of other metals, and that, on the opening of the ports of Chili, British hardware and cutlery had been eagerly purchased, and substituted for articles of the same description made of silver. What a field was here opened for our manufactures, at a time too when the capital of the country was lying dead for want of employment! He did not say that this would open an unbounded mart for our wares; and nothing could be farther from his mind than to encourage that overtrading which had already been productive of much evil. But it was clear that this market might become a gradual and constant outlet for the produce of our industry; and that such a trade would be one of the best description, since it would promote the mutual interest of both countries. He should now conclude by expressing an earnest hope that whether the papers should be laid on the table or not, his majesty's ministers would take the subject into their most serious consideration; that in strict conformity with the law of nations, and the best interests of this country, they would at last indulge that feeling which was common to every generous and liberal mind; and that, by acknowledging the independence of South America, they would add the consummation to that triumph which a brave people had already achieved by their own arms; and enjoy the honour and glory of being the first power to recognize the restoration to freedom, and the emancipation from tyranny and despotism, of so large a portion of the world.—He then moved, "That an Address be presented to his Majesty for the production of Copies of all Official Communications received by his majesty's government relative to a Negotiation between the French government and that of Buenos Ayres, or its agents, relative to the establishment of a Bourbon Dynasty in South America."

Lord *Castlereagh* objected to the motion, on the ground that the information alluded to by the learned gentleman had not reached government in such a shape that it could be laid on the table; and ob-

served, that he would not be dragged by the example of the hon. and learned gentleman into an abstract discussion on assumed facts, which could only lead to great misconceptions both at home and abroad. Certainly the bringing forward of such a subject, at such a time, and under such a form, was calculated to occasion a degree of embarrassment to his majesty's ministers, who neither could enter, nor ought to be required to, enter into an explanation, when they were not in possession of the facts to be explained. Neither was this the mode in which a subject of such inconceivable importance was to be lightly submitted to the House. At so late a period of the session it was not to be supposed that government would feel themselves authorized to entertain such a question but upon strong and formal grounds. The House would allow him to observe, that it was one which had before attracted their attention. Having been on a former night asked a question relative to these papers by an hon. and gallant general, he had distinctly answered that the state of information, or rather the want of information in which the government was placed was such that he could not give any satisfactory reply on the subject, and that the information was of such a nature, that on no principle of propriety or justice could it be laid on the table—if placed there, it would scarcely be intelligible to the House, and could not enable it to form a judgment on the transactions to which it related. He entreated that the House would not be carried away by that dangerous sensibility, on the present occasion, which any topic of this character, involving national interests, was likely to excite. As to the official documents mentioned in the motion of the hon. and learned gentleman, they were in fact no other than a number of papers and letters, which had been transmitted by the naval officer upon the river Plata station to his majesty's government, and which contained a statement and specification of some of the charges now bringing forward against the members of a late government which had been established in those distant regions, and which stood at present impeached. The learned gentleman must know that we were not officially connected with the government in question, nor was it possible that informal documents, relative to any part of its conduct, should be submitted by his majesty's ministers to parliament. It was not, however, on this account, that he meant to resist the production of any such papers as might be got at, connected with the subject of the learned gentleman's motion. He was sure that hon. and learned member must now be aware that the objects of his own motion would not be gained by those papers for which he moved alone; but that a great many others would be necessary, in order to enable the House to form its judgment upon the merits of the case. He must express his entire dissent from the opinions advanced by the hon. and learned gentleman as to the propriety of our taking an early opportunity of recognizing some South American government of a local character. He must be permitted to say, that having assumed some general propositions as truths, the hon. and learned gentleman had gone on to argue them in a form equally general; and, without confining himself to the particular transaction in point, appeared disposed to make his present motion only the stepping-stone to an entire review of the whole policy which this country had adopted towards South America. He was sure that on a subject of such immense importance, the House would not wish to see him dragged into any precipitate or premature expression of his opinions, especially as great misunderstanding already existed in that House, in the country, and abroad. Supposing the required information, however, were produced, it must remain a dead letter upon their table, and the House would be unable to enter into any proceeding upon it. He would submit also, without going further into the subject, that up to that moment no real ground whatever had been laid for the adoption of this motion; and he would really beg the hon. and learned gentleman to reconsider and remodel it; in which case he might the better ask his majesty's government for the explanation he was desirous of obtaining. He would, before he sat down, call upon the hon. and learned gentleman not to raise, by any expressions of his, presumptions unfavourable to the character of foreign powers, and likely to prove hostile to the relations at present subsisting between them and ourselves. With regard to the relations between ourselves and France, there was a feeling in this country, which, once excited, was too apt to take fire, and which existed because people were disposed to think that the interests of that

state were in rivality with our own. With regard to what was called "the Holy Alliance," he believed he had had as many opportunities of observing what were the real feelings of foreign powers as the hon. and learned gentleman, and he really could not find any ground for imputing to them that distrust, jealousy, and suspicion of our policy and interests, which had been charged against them, or any studied disregard of the measures originated in the parliament of this country. If he felt inclined to enter upon so wide and serious a subject, he thought that he should be able to satisfy the mind of the hon. and learned gentleman on all these points. He was at a loss, in the mean time, to account for the imputations which had been directed against one of those great powers in particular —he meant Russia. In the very papers wherein a wish was expressed that the insurgent states should be governed by a monarchical rather than a republican form of government, Russia and Austria were included in the same paragraph. He was confident that the feeling upon the part of the great powers was no other than an anxious desire to secure the peace of the world; that the general tranquillity was their greatest object; and he would venture to say that the honour of every individual power who was a party to that holy alliance of which mention had been made by the hon. and learned gentleman, was untainted. If there was any thing in this transaction discreditable to the powers engaged in it, it was the first instance which had come to his knowledge since the restoration of tranquillity to Europe, of any deviation on the part of any of those powers from their sincerely pacific dispositions. He hoped that for the present the House would suspend its judgment on the whole of the case, and, indeed, he was convinced that they would consider the information was not called for, or that, if produced, it would prove to be useless.

Sir *James Mackintosh* was sure that honourable gentlemen would be disposed to concur with him in thinking it a matter of profound regret, that a subject of such immense importance should have only been able to command so thin an attendance of members, and so languid an interest, as it seemed likely to excite. He did not know what might be the exact cause of so unfortunate a difference in the opinions of members of that House upon such a topic; but he should be sorry that foreign powers, or even the majority of the country, should suppose that the attention of the House of Commons was so entirely absorbed in the domestic calamity to which its anxious consideration had been so long directed, that its attention was called away from the protection and welfare of its foreign relations. He should grieve if it were likely to be imagined that this country had forgotten on that account her national powers or her national interests; or that a minister of the Crown should rise in that House, and successfully warn them against indulging that sensibility to national honour which it used to be the boast of our ancestors ardently to cherish—that jealous sensibility of our forefathers, without which this country would be best prepared for the imposition of a foreign yoke. He hoped that this was not the lesson which was to be taught to the empire—that this was not the spirit by which it was to be animated, that this was not the language which the House of Commons was to hold to foreign powers. He hoped that House was not to say to them—"You may enter into a secret correspondence hostile to our interests; you may endeavour to supplant us in remote, but flourishing, regions; you may attack, by treachery, our commerce and our connexions; but, such is the state of this country, that we must shut our eyes to all your proceedings; for to agitate a question upon them would be a measure highly prejudicial to the peace and welfare of the country." He knew that, under particular circumstances, ministers had frequently found the discussions of that House a serious inconvenience and obstruction to their views, when they were contrary to those entertained by a large body of the community; but he should imagine also that they as frequently found that House to be their great and powerful seconder; and never so much so as when they manifested a jealous sense of the honour and a vigilant zeal for the interests of the country, and exerted themselves to protect her against foreign encroachments, if not of a treacherous, at least, of a very equivocal nature. The noble lord had not, in fact, denied that government were in possession of documents which he believed to be substantially authentic. The noble lord had therefore admitted, in effect, a case for inquiry. On his own showing, it was a case for the interposition of the House; and

he should contend that his learned friend was entitled to the object of his motion, which was, that the House should be put in possession of those papers, however wanting in point of form, or however irregular they might be, that were already in the hands of government. One thing had very forcibly struck him in the perspicuous statement of his honourable and learned friend. It appeared, in the course of that statement, that the negotiation which had been entered into for the purpose of placing a prince of the house of Bourbon upon the throne of one of the most extensive regions of America was opened at Paris in the month of May, 1819. It was curious to observe how differently the two states immediately concerned in the question before the House were at that time occupied; the singularity of the coincidence was instructive. At that time this House was employed in passing a bill which was in fact a declaration in favour of Old Spain—a measure framed and projected to gratify the vain and illusory hopes which Old Spain entertained of recovering her domination in America. So that, at the very moment when the great powers of France, Russia, Austria, Prussia, and perhaps Spain herself, sensible of the impossibility of re-establishing her corrupt empire and feeble authority in her immense and distant colonies, were engaged in a project for the substitution of another government in their stead, which should be as adverse and as inimical to the interests of Great Britain as possible, we were busy in passing a measure intended, by the voluntary sacrifice of our own interests, to gratify the desires of the Spanish court. Now if the noble lord intended to say that this singular and dangerous negotiation—carried on by agents whose inexpertness and want of experience were not likely to make them the most sacred depositories in the world—was in existence without his majesty's ministers ever hearing of it till very recently, then he must say that a stronger instance of culpable negligence, as to the obtaining of proper and necessary information upon matters of vital importance to the country, he had never heard of. But if, on the other hand, his majesty's ministers had been sufficiently vigilant, and had obtained that intelligence on the earliest opportunity, then they had engaged, he must say, in a series of discussions, for the purpose of inducing, of gulling parliament into the adoption of a measure, to which undoubtedly it never could have been brought to consent, had it possessed any knowledge of the existence of such a negotiation. He did not mean to say that at the present moment, it would be proper for the House to address the Crown with its advice as to the policy to be pursued with respect to South America; neither did he say that upon the information in question, it could do so. This, however, he would say, that it would be extremely proper for them to accede to the motion of his hon. and learned friend, the effect of which would be, in the first place, that the House would then have the same information as the government was in possession of; and, in the second, to demonstrate to foreign powers that we were not yet so indifferent to national honour or to national interests, as to overlook or disregard such a project as that in which the government of France appeared to have been engaged. He could really conceive no milder nor any more proper way of effecting these objects than that which was offered by the motion of his hon. and learned friend; by the adoption of which, indeed, the House would do no more than express those feelings which he was very sure it must entertain. It would moreover strengthen the hands of his majesty's ministers whenever any future negotiation or proceeding upon the subject should occur. He was the last person in the world, he begged to say, who would venture at present to express an opinion as to what ought to be the policy that should be adopted towards Spain and America, because he admitted that those countries were in a very peculiar situation; and he would admit also that he remembered no state of things, at any former period of their history, which in any degree approached to that now subsisting between the two countries. The recent memorable transactions in Spain had, he thought, completely changed the whole state of the previous relations between her and America. When the question was, whether or not America should be compelled to return under a detestable yoke, he had, during the discussions upon the Foreign Enlistment bill, endeavoured to mark, as strongly as possible, his reprehension and detestation of the proposition. But now, when the state of moral and political existence had sustained so material an alteration in consequence of recent occurrences in Europe, he would confess that the opinions which he then expressed had in some degree changed.

To return under the yoke of an odious and execrable despotism was one thing; the union of Spaniards and Americans upon a principle of common freedom was another. If that union were sincerely desired, and likely to be a happy one, no other nation had a right to say any thing against it. It was to be remembered that the representatives of the Spanish nation were at that moment engaged in the settlement of all those important relations. No man could anticipate the result of their deliberations; but if it were possible, as he sincerely hoped, that they had relinquished their demand of empire over these boundless colonies, and if it were really desired to restore to South America her independence and her freedom, he trusted that any such contract, would be conducted upon fair and equal terms to both parties. Of so fortunate an event he acknowledged that he was not very sanguine, although he well knew that popular assemblies were generally pervaded by a feeling friendly to the accomplishment of so desirable an object. The Cortes of Spain, the parliament of England, and every other popular assembly possessing influence and power, had shown as great a spirit of national freedom, as strong a jealousy of national honour, as the world had ever witnessed; and he could not deny that these feelings were always desirable in such assemblies beyond all others, however in their excess they might be evils. Although he would not be precipitated into the expression of any premature opinion as to the result of that great assembly's deliberations, he begged to say a few words upon the subject. He might be allowed to observe, that Spain had already conferred two of the greatest benefits upon mankind that a people had ever possessed an opportunity of conferring. The first of these was the expulsion of a powerful foreign invader from her shores by the virtuous and generous energies of her population, backed by little aid from regular military force; an event affording the best example that had ever been afforded to Europe of the successful assertion of national independence. Whatever designs of ambition might be entertained by any future conqueror, Spain would be the last country which he would venture to approach [He was sorry to observe, by the smiles of the gentlemen opposite, that they were thinking of party questions, which he could assure them did not at all mingle with his view of the subject]. Another great service which Spain had done to the cause of mankind was, that she had established her liberties by a revolution, hitherto unstained by crimes or blood. This service, not inferior in importance to the first, she had, however, yet to complete by still more difficult steps. For himself, he trusted, that the spirit of political reform had become too powerful to be resisted. It had crushed all its open adversaries. He firmly believed that the only danger to which it was exposed, arose from the passions or errors of popular leaders. Nothing else could defeat or retard the progress of the spirit of improvement; and he firmly believed that every government that engaged in a struggle with that spirit would be destroyed. The Spanish nation had formerly evinced great virtues and wisdom; and he trusted they would profit by the experience which the world had had on the subject of liberty. He trusted they would discover from that experience, that nothing was so easy as to overshoot liberty; and that a free constitution was naturally surrounded by various kinds of tyrannies, into some one of which, if pushed too far, it must inevitably be precipitated. He trusted that they would engraft their reformation on the antient principles of their constitution—that they would connect their new liberties with all the classes into which society was divided—that they would attach every great body of people in the state to the preservation of those liberties—and that they would not add another to the unfortunate list of nations who, in the first delirium of their joy on emancipation from thraldom, had inflicted wounds on freedom which ages could not cure.

Mr. *Canning* opposed the motion as quite unusual under the circumstances of the case. It was for papers which in fact were already in the possession of both sides of the House; but as yet it could not be said whether the information stated in them was or was not correct, and this he thought sufficient to show that it could not be acceded to. His hon. and learned friend seemed to impute to his majesty's ministers a total want of all that sensibility to the national honour for which he gave himself and his hon. friend, the mover, credit. On the hypothesis of the validity of the document in question, government might be disposed to feel as strongly as the hon. mover and his hon. and learned friend; but although it might be perfectly harmless, or even beneficial,

for the hon. and learned gentleman to reason on such an hypothesis, it could scarcely be expected that ministers, as such, would take up the subject hypothetically, and talk of the indignation which they might feel against Austria, or Russia, or France, or Spain, if such and such alleged facts should turn out to be true. With respect to the coincidence pointed out by his hon. and learned friend in the passing of the Foreign Intercourse bill and the commencement of the alleged negotiation, it was remarkable; but if true, he should still rejoice that we had discharged our duty; for in public as in private life "honesty was the best policy." Adverting to the change which his hon. and learned friend had avowed to have taken place in his sentiments respecting the connection between Spain and Spanish America, he observed that it was now apparent that his hon. and learned friend's opposition to the bill of last session was founded, not in love to the latter, but in hatred to the former. His hon. and learned friend's object, it was now evident, had been, not to benefit the one, but to wound the other. This was an additional proof that those who spoke most loudly of liberty, were seldom so really attached to it as more moderate assertors of its value. He was an enemy to prophecy, and therefore he would not pretend to predict what effect the measures of the popular assembly in Spain would have on the Spanish provinces; but looking back on history, he would confidently assert that whatever benefits a metropolitan district might derive from a popular assembly, the state of provinces under such an assembly had always been one of suffering. Any one therefore who was animated by an ardent solicitude for the cause of South America, should be so far from retracting any opinion he had entertained on the subject during the existence of the late government in Spain, that the democratic change in that government ought to induce him to assert that opinion with tenfold vehemence. His hon. and learned friend had talked of the expulsion of the French from Spain by the mere energy of the people, with "little" aid of regular military force. His hon. and learned friend was not in parliament at the commencement of the Spanish contest. He could tell him, that only ten years ago, the man who had ventured to predict that Spain would be released from the yoke of France, would have been laughed to scorn. The Spanish people were at that time called weak bigots, incapable of raising an arm in their own defence, and he would have been considered a visionary madman who should have anticipated the actual result. It was true that the Spanish people had subsequently made great efforts; but when his hon. and learned friend talked of their having only "little" regular military aid, he wished to ask whether the history of the victories of Salamanca, of Vittoria, of Talavera, of the Pyrenees, with all the other glorious achievements of the illustrious Wellington, was so vague and remote, that his hon. and learned friend could call the assistance which England had rendered to Spain a "little" military aid? Left to itself, the cause of Spain must have been hopeless. Nothing could have saved her but the celebrated march of our illustrious commander. Now, however, all this was to be called a "little" military aid, and was to be sunk, because Spain had had a revolution, and the benefits of a revolution must be talked of.—She who, so short a time since, was declared incapable, supine and nerveless, was now held up as her own great emancipator. At the same time it was a matter of sincere congratulation that what 10 years since was looked upon as madness, was now matter of enthusiastic and indubitable history. He trusted as much as his hon. and learned friend that the march of freedom (to use the cant usually employed) would be uninterrupted; though he earnestly hoped that it would not be at the expense of such convulsions as had been witnessed in South America. He was as warm a friend for the extension of liberty and of liberal institutions throughout the world as his hon. and learned friend; but he never was disposed to prefer new institutions because they were new, and to detest established institutions because they were established. He retained the same wishes with respect to South America as formerly; but he must oppose the hon. and learned gentleman's motion, considering it to be altogether without ground.

Sir *J. Mackintosh*, in explanation, complained that his right hon. friend had strangely misrepresented him. In the first place, in speaking of aid from military force, he had distinctly said, that the Spanish people had delivered themselves with little aid from regular military force of their own; it was far from his intention in that expression to allude to the British army, of whom he had always spoken as

he felt, and who had undoubtedly rendered the greatest service to Spain ever rendered to any country by a foreign army. In the second place, in speaking of the possible reconciliation of the European and American Spaniards, he had given no opinion about the expediency or probability of such a transaction; he had said only, that the union of those two free nations was a perfectly different transaction from the reduction of South America under the yoke of an absolute monarchy; and that it might be fit to delay any decisive step until it should be seen whether the Cortes would offer liberal and equal terms, and whether the American Spaniards were disposed to listen to any proposals of union. As to the general imputations thrown out or insinuated against him, he left the House to judge, from his language on this as well as on all former occasions, whether he was justly described as an enemy of established institutions, merely as such, or as supporting innovations from a general passion for novelty.

Mr. *Ellice* implored government to bestow its most anxious attention on the British interests in South America. At that moment an interposition in behalf of our trade might be attended with the utmost advantage. The magnitude of that trade at present was very great; in fact, from Mexico to Cape Horn, all were supplied with British manufactures by British traders, and not only was that trade very great, but there was a new branch opened between the west coast of America and England direct, which he had no doubt would, if the East India restrictions were done away with, arrive at a very great height. He derived great consolation from the earnest tone assumed by the noble lord, and by the right hon. gentleman; and he was sure that the States of America would require protection in any negotiation with Spain, for maintaining the freedom they had acquired. If any improvement was to be expected in the trade of this country; if relief was to be looked for in any quarter for our desponding manufacturers, it must principally be by extending our commerce with South America.

Dr. *Lushington* replied, and said, he was not, under all the circumstances, inclined to press his motion, and would therefore, with the permission of the House, withdraw it.

The motion was withdrawn.

East India Company's Volunteers Bill.] On the motion that this bill be read a third time,

Mr. *Creevey* said, he had hoped that the bill would have been removed altogether from the table. He contended, that the measure was a part of the military system ministers were establishing throughout the country. The embodying an army by the East-India company was one of the last acts towards a military despotism he had expected. Ministers were now repeating what they had done 25 years ago, with this difference; that then an army was embodied to fight the French; now, it was marshalled to subdue a distressed population. It had been said, that the disaffected had brought these military measures upon themselves; but such an assertion was both indiscreet and unjust, since parliament itself had been the great instrument of oppression. The real nostrum to cure discontent was economy and a removal of the burden of taxation; yet instead of doing so, the East-India company, itself a grievance to the mercantile interest, by monopolizing the trade to China, was made to raise a force to support the government which supported them. It would be much more becoming in the company to reduce their expenses, and look forward to the day when their charter would not be renewed. He would move, "that the bill be read a third time on this day six months."

Mr. *Money* said, it was not now the time to enter into the question whether the East India Company was a grievance or not; it was sufficient for him that it existed under the sanction of parliament. The force in question was not of a new description, but was composed of men who were under the obligation of self-interest to unite the character of good citizens and good soldiers. It was a measure to enable the Company to protect the immense property in their warehouses, and at times to afford their aid to the civil power.

Mr. *Hobhouse* said, that though it was the fashion to insist that the people were inflamed by demagogues, he would contend that they had never entertained any such designs as to warrant ministers in adopting measures like that before the House. At this moment the standing army was 92,000 men, while Cromwell had been able to keep down a disaffected population with not more than one-third of the force. New barracks were constructing in all di-

rections; even the King's Mews were to be converted into a sort of a garrison. The truth was, that government had so long talked of the phantom of disaffection, that they now believed in its existence as children frightened themselves into a notion of the reality of ghosts.

Mr. *Williams* supported the bill, because he conceived volunteer or militia regiments the most constitutional force that could be used for the preservation of the public peace. He was adverse to a large standing army, and therefore it was that he supported the measure.

The question that the bill be read a third time, was put and agreed to.

STATE OF WESTMINSTER ABBEY.] On the report of the Appropriation bill being brought up,

Sir *M. W. Ridley* said, he wished to put a question to the right hon. gentleman opposite. A number of fine trees which had long stood an ornament in St. Margaret's Church-yard, had been recently cut down, and he was informed that they were cut down for a reason disgraceful to the dean and chapter of Westminster; they were cut down, if he were rightly informed, for the purpose of creating a space intended to be let at a high price to persons who might be anxious to view the coronation. Those trees had stood for many years an ornament to the venerable fabric which they shaded; and as to the fabric itself, on looking into the interior of Westminster Abbey—on viewing the state of those monuments, which were an ornament of the age, and an evidence at once of the gratitude of the country, and of the high heroic and patriot virtues which called that gratitude forth—it was, he said, most painful to see the disgraceful manner in which those monuments, as well as the interior entire building, were neglected.

The *Chancellor of the Exchequer* could not say whether the act was done by the dean and chapter or by parish vestry. As to cutting down the trees, he apprehended the same had been done on former coronations.

Sir *J. Newport* said, the dean and chapter had all the advantages, whilst the public were obliged to meet the expences of Westminster Abbey. He considered the neglect of that fine edifice as most scandalous and disgraceful, and a fit subject for the reprobation of that House. If on any occasion an application should be made to parliament for the repairs of Westminster Abbey, they should be guarded indeed in awarding any grant of money for that purpose.

Mr. *Bankes* said, that the cutting down of those trees for a sordid purpose, reflected any thing but honour on the reverend body. He would not vote in future, for any money for the repairs of Westminster Abbey; and he thought the House should resist any such vote if it should be proposed.

Mr. *W. Smith* said, it was shameful to see the manner in which the inspection of the interior of this edifice was, as it were, let out by two-pences; no one felt more disgust at such conduct than he did; but the dean and chapter could not be expected to lay out, as the public had done, 41,000*l.* in the splendid decorations of Henry the 7th's chapel.

Sir *M. W. Ridley* said, that early in the next session he would bring under the consideration of the House, the state of Westminster Abbey and St. Paul's.

HOUSE OF COMMONS.

Wednesday, July 12.

GRANTHAM ELECTION—R. A. JERVIS REPRIMANDED.] R. A. Jervis was brought to the bar, where he received the following Reprimand from Mr. Speaker, and was ordered to be discharged out of custody:

"Richard Armstrong Jervis; You were reported by the select committee appointed to hear and determine the merits of a petition complaining of an undue election and return for the borough of Grantham, as having disobeyed a warrant directing your attendance before that committee:—for this disobedience you were ordered to be taken into the custody of the serjeant at arms. You were then reported as having absconded, in order to avoid being so taken into custody; you subsequently surrendered yourself, and were then committed to his majesty's gaol of Newgate.

"You now petition to be released, expressing your sorrow and contrition, acknowledging your offence, and throwing yourself upon the mercy of the House. Upon a full consideration of your case, the House is inclined to extend its mercy. I must, however, observe upon one passage in your petition, in which you plead, as an excuse for your misconduct, that you were not sufficiently aware of the nature and importance of this warrant.

It is well that you and all should know, that the parties to whom the Speaker's warrant is directed, are not to constitute themselves judges of the nature or importance of it: they have but one duty to perform—prompt and implicit obedience—by the performance of which alone, they can secure themselves from the inconvenience and punishment to which you have been subjected.

"Under all the circumstances, however, of your case, believing that your misconduct has arisen rather from ignorance and misunderstanding, than from any attempt to resist the authority of this House, or any corrupt design to impede the course of justice, this House is prepared to extend its utmost lenity, and now to discharge you from further confinement; and you are hereby discharged, upon payment of your fees."

GRANTHAM ELECTION.] Dr. *Phillimore* moved, that the report of the resolution of the Grantham Election Committee be read. The same having been accordingly read, the learned gentleman rose to move that the House should adopt the above resolution. In so doing he was only proposing what it was suggested to him was a usual course of proceeding when reports of this nature were presented. In the absence of the chairman of the committee he had therefore undertaken to bring the question forward. He must apprize the House, that he had no view to any ulterior measure; but it having appeared to the committee that the late member had fallen a victim to an inveterate practice, which some even were of opinion was not illegal, he thought it proper that the House should lay down some declaratory resolution, founded on antecedent acts of parliament and general principles of law, in order to prevent similar delusion in future. Beneficial as was the general tendency of popular elections, and much as the country owed to them, they were nevertheless productive of considerable inconvenience, and, with a view of meeting this inconvenience, the act of the 7th and 8th of William 3rd had been passed. By that act it was forbidden to give money directly or indirectly to any elector during the period which elapsed between the *teste* of the writ and the return. It was, however, still left equivocal whether the giving money for loss of time was to be considered as bribery, or only as fair compensation. In his own opinion it certainly was contrary to the statute, and he believed it had been so adjudged in the courts of law. Upon these grounds he should now move, "That the practice of paying money to out-voters, at the elections for members of this House, under colour of indemnifying them for loss of time, is highly illegal, subversive of the freedom of election, and tending to the most dangerous corruption."

Mr. *Abercromby* would not pronounce any decisive opinion upon this resolution, beyond saying, that as the case stood, he thought it clear it ought not to be put without serious consideration. If the law as it now stood was decisive on the point, the resolution was unnecessary. If the law were doubtful, surely they did not mean to set it right by a mere declaratory resolution.

Dr. *Phillimore* observed, he had not said the law was doubtful, for it was quite clear money could not be legally given in the manner it had been given at this election.

Mr. *Wynn* said, he could see nothing doubtful in the proposition. The bill, which was before the House some time ago, did not relate to loss of time, but to travelling expenses. Even the payment of those expenses was, in his opinion, illegal. The giving meat or drink upon the road was evidently an offence against the Treating act, and ought to render the election void. The only question here was, whether the pains of bribery were incurred, or whether it was a minor offence? If, as there was reason to believe, a mistake was prevalent on this subject, it ought to be set right by a declaration of the House—a course which had been repeatedly followed on similar occasions. If the practice of giving money for loss of time were tolerated, it would be much better to repeal at once all the statutes against bribery at elections.

Mr. *Wrottesley* thought the present course objectionable. It was not so clear to him that remuneration for loss of time in going to vote was so decidedly against the law as the hon. gentleman thought. At all events, he had strong objections to this mode of settling the law by a declaratory resolution.

Mr. *W. Smith* said, the case was so clear that he had at first thought the resolution unnecessary, but the doubts which he had heard raised convinced him of the necessity of it.

Mr. *Lockhart* thought the resolution was

clearly unnecessary. He was surprised that the distinction between the statutes of bribery and treating should have been overlooked. The one forbad all acts of treating; but the other applied only to the giving of money, which it declared illegal, whatever was the pretence. When the House was asked to come to a declaratory resolution, they ought to consider a little what would be its effect. Would the judges in the courts of law feel themselves bound by it on the trial of actions brought upon the statute? Certainly not; they acted under their oaths, and would put their own construction upon the law. Let them reflect, then, into how awkward a situation they might be brought. The question might be carried by writ of error before the highest tribunal, and a decision given directly contrary to the exposition of that House. All that the House could do was to bind its own committees; and he greatly doubted whether a committee sitting judicially, and obliged to decide on legal arguments, would feel justified in laying aside its own conviction, out of respect for a general declaration of the House.

Mr. *Warren* agreed with the views taken by the hon. member who spoke last. The House ought to take care that every resolution which it passed should be binding on its committees. By a declared opinion, such as that which they were invited to come to, they would appear as if attempting to make law, and to control the effects of an act of parliament. He thought the proposition, to say the least of it, crude and ill-digested.

Mr. *Wynn* explained. He had said, that every payment of money to an elector for loss of time was distinctly illegal. It was not only an offence against the statute, but against the law of parliament, as frequently laid down in the resolutions of that House, and which he would maintain it was the duty of the House to lay down, without waiting for the concurrence of any other authority.

Dr. *Phillimore* said, he had brought forward the resolution as the organ of the committee in the absence of the chairman. An inveterate practice had been proved to subsist in the borough of Grantham, of giving 7*l*. or 8*l*. to each out-voter as an indemnity for loss of time. Of this practice, which, in the opinion of the committee, was illegal, the late sitting member had become a victim. He thought it but fair that future candidates should be put upon their guard, and that for this purpose it was expedient to transfer the resolution from the committee to the House The resolution was clearly founded both on principles of the common law, and on the express words of the statute. If rejected, he much feared that the House would open a door through which corruption would soon make alarming inroads, and he believed that the gentlemen of landed property in that House would be the greatest sufferers.

The House divided; Ayes, 66; Noes, 60: Majority for the Resolution, 6.

The Queen's Counsel.] Mr. *Brougham* said, he rose, pursuant to notice, to move that he and his learned friend should have leave given them, as her majesty's attorney and solicitor-general, being members of that House, to appear in her behalf at the bar of the House of Lords. The learned gentleman moved, "That leave be given to her majesty's attorney and solictor general, members of this House, to plead as counsel at the bar of the House of Lords against the bill now pending in that House concerning her majesty, under the particular circumstances of the case; and that the said leave be not, in time coming, drawn into a precedent." The learned gentleman observed, that he had introduced the latter part of the motion, because the House would recollect, that their order was more especially directed against private bills than appeals, and he thought it was proper that the salvo should be co-extensive with their standing order.

Lord *Castlereagh* said, the case of the queen was so peculiar, it was of such transcendent importance, that if there were two honourable members in that House to whose legal care her majesty wished to intrust her interests in the House of Lords, it was quite sufficient to state that fact to induce the House to dispense with the standing order, and to grant the necessary leave. But he conceived the same privilege should be conceded to the other side, if gentlemen, members of that House, were called on to exercise their talents in support of this important bill. In that case it would be proper that the individuals thus selected should exercise their functions in that House with the same reserve, and with the same understanding, that the gentlemen opposite would exercise their's; namely, that they should discuss the question professionally, and not interfere by

giving any vote on it. In making these observations, he alluded to his majesty's attorney and solicitor-general, who might, in the performance of their professional duties, be called on to attend. Actuated by this feeling, he would, either by way of amendment, or in the shape of a substantive motion, call on the House to allow his majesty's attorney and solicitor-general the same leave that was granted to the attorney and solicitor-general of her majesty.

Mr. *Wynn* said, it was necessary that a special permission should be granted to members of that House to appear at the bar of the House of Lords, if they acted in conformity with the standing order. It appeared, on reference to the earliest period to which their Journals reached, that it had been the constant practice to allow no member of the House of Commons to attend at the bar of the House of Lords without the special leave of this House. So early as the year 1694 several cases of this kind occurred. In one of these the Speaker stated, as a ground for this permission, that, in the reign of queen Elizabeth, the same principle had been acted on, and he had himself been permitted to appear before the Lords. The extreme inconvenience of extending this system was, however, evident; and therefore the House ought to be cautious in granting such permission. It was highly desirable that members should come to the discussion of bills in that House with minds completely unbiassed; and when they had acted as counsel in the other House, whether for or against a bill, they could not be supposed to be wholly unprejudiced. It was on this ground that the resolution of 1666 was entered into; which resolution he took to be strictly declaratory of the law of parliament on the subject. It was a matter worthy of the consideration of the House, whether it would not be proper that this standing order, which only extended to bills coming to that House from the House of Lords—bills which had not originated in the House of Commons—should be made to apply to all bills whatsoever. The inconvenience that might result from the existing state of the order was obvious, since members of the House of Commons might be retained to act as counsel on a bill, when it came before the House of Lords, with a view to obtaining their previous assistance in the Commons. The possibility of such a circumstance ought to be guarded against. Permission to appear at the bar of the Lords continued to be granted for some years after the Restoration, until considerable controversies took place between the two Houses on the subject of their respective privileges. The House must be aware that, at the time to which he alluded, the Commons asserted the right of committing any member, who, without special leave, appeared at the bar of the House of Lords. This undoubtedly they could do, because no court could ensure obedience to its orders, unless it had the power of punishing any practice contrary to those orders. After this period there were instances on record where the House of Commons refused permission to members to attend at the bar of the other House. One resolution had even been agreed to, refusing permission to members to attend at the bar of the House of Lords in appeal causes. The last leave given was in the year 1710, and it had since been customary to allow professional gentlemen, members of this House, to plead, in appeal causes, before the Lords, without molestation. He could not forbear suggesting to his learned friend that it would be better, and practically more convenient, if the motion terminated thus—" And the said leave shall not be, in time coming, drawn into precedent," without any further observation; because the leave granted, in this instance, would be avowedly under circumstances of a special nature, which could not occur in any other case. The individuals for whom leave was required stood in a particular situation. They acted as attorney and solicitor-general to the queen; and, with the exception of the king, none but the queen and the prince of Wales were allowed such legal officers. They were specially appointed to defend the rights of those personages. The case of the king's attorney and solicitor-general did not rest on the same grounds. They were, in fact, counsel for the Crown. Now, the question lay between the queen and the public; and the public interest might be protected by any other legal characters.

The motion was agreed to.

Lord *Castlereagh* did not think that any distinction could be drawn between the case of the king's attorney and solicitor-general and that of the attorney and solicitor-general of her majesty. The king's attorney and solicitor-general were officers appointed to act in great public prosecutions, and had a right, as officers of the Crown, to exercise their legal functions in

this, as in other cases of a more common nature. It would seem that they were the only parties that could appear, with advantage, before the House of Lords. He conceived it would be very unfair, supposing the bill should pass the Lords, and be brought under the consideration of this House, if, when one party was allowed the advantage that would result from the attendance of two gentlemen who had been present at the whole proceeding, and had cross-examined the witnesses, the opposite party were not allowed the assistance of two other gentlemen who had an equal knowledge of the case, and who were possessed of the necessary facilities for bringing the whole of its merits before the House. He would therefore move, that a similar permission be granted to the king's attorney and solicitor-general.

Mr. *Wynn* expressed his apprehension, that notwithstanding the concluding provision of the noble lord's motion, the adoption of it was but too likely to be drawn into precedent in other cases in which the Crown might feel an interest in supporting any measure in the House of Lords, while in the former motion no such apprehension could be entertained; as no such case was likely to recur, and this formed another marked distinction between the two motions.

Mr. *Williams* remarked, that the noble lord had not coupled with his motion any statement that the king's attorney and solicitor-generals should not vote upon the bill of pains and penalties in that House, if such a bill were brought down from the other House of parliament.

Lord *Castlereagh* said, that he had stated at the outset that such was the distinct understanding.

Mr. *Brougham* would not oppose this motion, although he was at a loss to conceive upon what ground it was proposed. It was observed by the noble lord, that the attorney and solicitor-general were counsel for the public as well as for the Crown. But every member of the House of Lords was, as well as every one of the judges, of counsel for the public, while it must be allowed that the Crown had quite enough of representation in that House in the great officers of state. Where, then, was the necessity for calling in the aid of the king's attorney and solicitor-generals?

The motion was agreed to. A similar motion with regard to Dr. Lushington, was also made and agreed to.

AUDIT OFFICE.] Mr. *Bennet* rose to move for the production of the minutes of the evidence taken before the finance committee of last session, upon the conduct of the Audit Office. The committee, he said, had taken no notice of the question of fees, a subject which had been minutely investigated in the report of the committee in 1810. The right hon. gentleman had produced a bill, in which certainly some fees were abolished, that is to say, two fees; one of 2*l.* 12*s.* in the office of the Lord Treasurer's Remembrancer, and another of 6*l.* 6*s.* in the Pipe-office. Another subject of which no notice was taken in the report of the committee, was the job of the Lisbon commission. The jobbing career at Lisbon having terminated, the right hon. gentleman was determined to repeat the job in England, and an establishment for auditing the accounts of that commission was fixed in Great George-street. The expenses of the Lisbon commission amounted to 11,600*l.* a-year, of which to this day only 3,250*l* had been audited. The establishment cost no less than 70,000*l.* in salaries, and only five accounts had yet been passed. He held in his hand a Treasury minute, from which it appeared, that a dispute had subsisted between sir R. Kennedy, the commissary-general at Lisbon, and the person at the head of the commission, and that charges had been brought by the latter individual against sir R. Kennedy, which in the opinion of government, were wholly destitute of foundation. The obvious conclusion from this was, that such a person was unfit for the situation which he now held at the establishment in London. The hon. member then entered into a variety of statements, with a view of showing, that the Treasury had interfered improperly in the passing of accounts, and concluded by moving for the minutes of the evidence taken by the late finance committee concerning the Audit-office.

Mr. *Davies Gilbert* said, that there was certainly some part of the evidence which the committee had held back, and they had done so, because they felt that the production of this evidence would have a tendency to affect private feelings, and expose private differences without producing any beneficial result to the public. With respect to the establishment of the Audit-office, a very large mass of accounts was now in progress, and would be brought forward at no very

distant period. The House in Great George-street was necessary, not so much for the accommodation of the individuals connected with the establishment as for the security of the large mass of documents which it was necessary to examine. He was so far from thinking the establishment too large, that he was convinced it would be an advantage to the public, if a greater number of persons were employed.

ALIEN BILL.] On the order of the day for the third reading of this bill,

Mr. *Hobhouse* said:—Sir; I feel more than usual reluctance in offering myself to the attention of the House on this occasion. I observe that this great question is treated with a neglect and indifference for which I am at a loss to account. Even the noble lord, the father of this measure, seems to have left it to its fate—[here lord Castlereagh entered]. I am glad to see that the noble secretary has thought it worth his while just to come down and attend upon his own offspring, although he will not deign to protect it. No, Sir, he will offer no excuses, no pretexts, for prolonging this odious, this unconstitutional enactment. Thrice has he been called upon by some of the most distinguished members of this House, to give some reasons for continuing this bill; but he has been called upon in vain; and like another considerable character, not in real but dramatic life, he will give no reasons "on compulsion"—no, "not if reasons were as plenty as blackberries." Sir; I have not the vanity to hope that I shall extort from him that which he has refused to others much more likely to make his lordship speak; but although I am well aware of my own incompetency, and although I know the almost proverbial folly of "arguing with the master of twenty legions," still a sense of duty induces me not to withhold from the House my sentiments upon a question so materially affecting the rights, and, what is more, the character of the English nation. Sir, it seems resolved, on the other side of the House, that we shall accept this proposition, as if it were self evident. Let me beg the House to remark how entirely the friends of the measure have abstained from any thing like a new argument, although there is nothing which assimilates present circumstances to those which formed the excuse of former alien bills. We have had just three speeches on this head—one from the noble secretary of state for foreign affairs, one from the solicitor general, and another from the chancellor of the duchy of Lancaster. Now, Sir, let me ask, to what did the excuses offered by these gentlemen amount? The noble lord merely told us that we had to contend not with foreign but with internal enemies, which made all precautionary measures peculiarly advisable; and that we were not to "compromise our character with our allies." These are the assertions of the noble lord—we have his word for them—but I see not how he comes to the conclusion respecting the expediency of peace alien bills, even admitting us to be in that state of internal warfare on which he and his friends are so unceasingly declaiming in this House. As to the solicitor general, he treated us only with a thrice refuted blunder from Blackstone, and with those truly national authorities for an English House of Commons, Vattel and Puffendorf. It is not worth while to consume the time of the House in repeating the law argument on this question. It is not in the power of all the law officers of the Crown to deny the notorious fact, that the policy of this bill is of no older date than the year 1793; that in all the former times of our history we have lived and flourished without any such barbarous regulations against those whom interest or curiosity might draw to our once hospitable shores. The hon. solicitor's quotation from Blackstone has already received the merited reply from the learned member for Knaresborough (sir J. Mackintosh). Let it sleep for ever—for the honour of the commentator on the English laws—let it be heard of no more.—But the chancellor for the duchy of Lancaster has, indeed, shown the poverty of the land; he has actually gone back to the French revolution for an excuse for an Alien bill in 1820. He has recurred to the old rhetorical drawer from which he and his friend have been drawing forth their topics so long, that the country and the House must by this time be heartily sick of such stale, such unprofitable arguments. Good Heavens! is this country, is the English House of Commons, are the people of England always to be governed by their fears? Is every argument to be directed to the basest, the meanest, of all the passions that agitate the human mind? It is time to have done talking of the French revolution, as if that event were to be a sufficing reason for altering the laws and manners and the very nature of all other

nations. If the right hon. gentleman could find no other excuse for continuing the Alien bill now, except that the French monarchy was subverted thirty years ago, much as I complain of the silence of his noble friend, I must say that it would not have much injured his view of the question if he had altogether refrained from joining in the debate.

Sir, the truth is, and it is ridiculous to attempt to conceal it by any contrary assertions, that this Alien bill is nothing but a measure connected with our foreign policy. It is absurd to regard it in any other light. The true character of it was forcibly drawn by that distinguished individual whose seat I now so unworthily occupy—I mean sir Samuel Romilly—who said of it in 1816, that it was "in furtherance of the design of establishing governments throughout Europe in opposition to the will of the people." I care not how it is denied on the other side. I know that this is a measure of congress. It is part of the new European system of general police—it is part of that system which is to make Great Britain an accomplice in the conspiracy against the liberties of mankind, and is to degrade our English minister for the home department into a mere runner for the continental cabinets. The hon. member for Bossiney (Mr. Ward), very well portrayed the extreme folly of pretending that our domestic tranquillity could be affected by the machinations of foreigners, even supposing them to be ill disposed towards us. To his speech I would add a great authority, that of Mr. Fox, who in 1793, held up to the scorn of this House the supposition that sedition could be spread and treason taught in broken English.

Sir, you might as well legislate against Punch, as against such imaginary mischief makers. The argument used by the friends of this measure has always applied to foreign and not to domestic policy. I am not talking of the first introduction of this sort of bill in 1793. I admit that at that period the danger was thought to be at home, and every sort of terrific topic was conjured up to engage the House of Commons to innovate upon the ancient practice of the constitution—amongst other assertions, perhaps the noble lord may recollect that it was said that 400 foreigners, all armed, had entered London in one day. Mr. Burke was inclined to admit the fact, but he denied the inference. He did not think these men either with or without arms were to be dreaded.—No,—they were his beloved royalists—the expelled partisans of the ancient system in France. He, however, was terrified by, and terrified the House with, the prospect of the thousands of Jacobins that might inundate our shores, and thus, as usual, the parliament was frightened into the resignation of one right, for the sake, as the constant excuse is, of securing all the rest.

Since 1793, however, the language used by ministers in recommending their Alien bills, has always referred to the governments of other countries rather than to our own. In 1802, when the peace Alien bill was passed, we were told, that the government of the consuls was unstable, and that we were to adhere to war regulations. In 1814, not being able to complain of the instability of Buonaparté, we complained of the instability of the Bourbons—it would not do to permit the enemies of that dynasty to carry on their plots against it in this country. So the peace Alien bill was to protect the recovered crown of France. In 1816, the pretext was still more openly confined to foreign policy. The noble lord opposite distinctly said;—"that the Alien bill would not be displeasing to foreign powers."—He said "that every vicious principle was not eradicated in France." He stated that the English army being in France, the Alien bill was a measure calculated to act in unison, as it were, with the temporary occupation of the French territory.—Every argument used had a direct reference to the preservation of the Bourbons, not of the House of Brunswick. Amongst others it was alleged, that eight and thirty exiled regicides and Napoleonists were trying to fix upon some spot where to direct their shafts against the restored princes, and that we should not suffer them to fix here.—In 1818, the same tenor was observed in all the arguments of the noble lord and his friends. The noble lord directly confessed that "at all events, until we saw the result of withdrawing the army from France, we should take every precautionary measure." It was also added by the noble lord, that plots had been formed in the Netherlands.—Plots against whom?—against England? No. Against France—against the Bourbons—against the duke of Wellington, the commander-in-chief of the armies that supported the Bourbons.—The danger was never said to be directed against us then; nor would it be said to be

directed against us now; were it not that all foreign excuses are out of the question; and now the noble lord must look for an excuse, where he never can find one, at home.

Sir, there is not a shadow of a pretext for continuing this bill.—The allied armies have been withdrawn from France.—Nothing has occurred to show that measure to have been imprudent: if the withdrawing 150,000 men from France has not endangered the dynasty; will it be endangered by withdrawing this Alien bill from England? The measures were contemporary, and confessed to be of the same kind. We have almost a promise of the noble lord that they should expire together; but he can give up the army; he can restore the French fortresses; he will not give up the Alien bill; he will not restore to us our free constitution, or our hospitable character, such as we enjoyed them in our happier and more glorious days.—The excuse of commotion in France exists no longer;—the uneasy spirit which was once believed to stalk abroad from that country, seeking whom it might devour in this and other nations, seems laid for ever; or at least is now at rest.—The revolutionary Archimedes who terrified the imagination of the right honourable the president of the board of control in 1818, can hardly haunt him now.—There is no such phantom seeking for some place where to put his foot and only wanting such a place, such a πῶ στῶ in order to unhinge and subvert the moral universe.

What object then do ministers propose to themselves by passing this law? The pretext of intestine danger is too idle to engage a moment's inquiry.—If our own laws, with all their increased severities, are sufficient to keep down seventeen millions of our own fellow subjects, with their facilities for treasonable operations, will they not be sufficient to keep down 25,000 foreigners who must necessarily be in comparison altogether powerless for such an object? We have done without this law before, through many an eventful period, when the throne was really beset by the emissaries of foreign potentates, and when a party in this country looked for foreign aid in order to accomplish their traitorous designs. But, Sir, as I before said, it would be a waste of words to attempt to show what was the former policy of this great nation respecting foreigners.—We may go back to Magna Charta;—we may go to still earlier times;—for in the laws of Ethelred we recognize the first trace of that liberal disposition which distinguished us for so many subsequent ages; and which it was reserved for the noble lord opposite to discourage for a season; or, perhaps to crush for ever. These are the days in which all our Gothic virtues are to receive their final dismissal.—Already they have placed their last footsteps upon English ground, and are about to take their leave of the degenerate offspring of parents, famous for their unshaken attachment to their free and generous institutions.

Again, I ask the noble lord what advantage does he propose to himself or to the nation by continuing this odious measure? Doubtless his lordship would be too patriotic to care for any sacrifice of fame or character which he might endure for the public benefit; but he may still not object to retain as much of private esteem as is compatible with his situation as minister. I may, therefore, be excused for telling him, that by continuing this bill he suffers no little loss of personal reputation in the eyes of the continental nations. Sir, it was my fate to witness the reception given to that noble lord, when he first appeared amongst the allies in 1813. Europe was then bursting those bonds which had so long enchained all her children and the noble lord. The representative of that nation which had so long maintained a single-handed struggle against tyranny, was hailed as the harbinger of universal freedom and of perpetual peace. Never shall I forget the enthusiasm, the delight, the transport, which preceded his approach. The lines of Dryden were not so truly applied to his favourite Absalom, as they might have been used to portray the reception given to the noble lord by the nations of the continent at that auspicious period:—

"Thee, Saviour, thee, a nation's vows confess,
And, never satisfied with seeing, bless.
Swift, unbespoken pomps thy steps proclaim,
And stammering babes are taught to bless thy name."

I recollect, and I trust without being guilty of the impertinence of praise I may be allowed to record the pleasure and the pride which I myself felt at being one of the nation so represented. I contrasted the modest yet manly demeanor, the simple yet decisive address of that noble person, with the less natural manners of foreign diplomatists. I thought I saw in the noble lord a fit representative of the strength and the honesty and the courage of my own

mighty nation. Although as far as I had presumed to form a political opinion, that opinion had always been at variance with the measures of the noble lord. I could not help flattering myself that under his auspices Great Britain would seize the favourable moment, and having subverted tyranny, would establish freedom and become the first, the greatest, the most lasting benefactress of mankind. But how was I deceived! how were the hopes of all Europe blighted almost in the bud! how changed was the aspect under which the noble lord was beheld in a very few years, I may almost say a few months, after the time I have before alluded to! In 1816 and in 1817 I had again an opportunity of surveying the same scenes and the same people. It is true that I saw only the surface of those things of which his lordship may have fathomed the depths; but it was the surface which I had before seen, and I may venture to assert, that the surface was not partially but totally changed. The opinion of cabinets may have been different, but only one sentiment prevailed amongst all classes of society, respecting the policy or the character of the noble lord. It is true that the ministers of foreign potentates did regard his lordship with the eye of affection. They saw in him an accomplice of their own schemes against public liberty. I recollect very well in 1817, that a secretary of state for one of those potentates, not of the first rank, but still much above the class of princes, who, as the right hon. the president of the board of control said, the other evening, furnish three soldiers, and the fraction of a corporal, to the armies of congress—this secretary, talking of the suspension of our Habeas Corpus act, and of the Alien bill, said, that he was glad that at last Great Britain pursued a policy similar to that of the continental cabinets, and became thus a member of the great European system. Such praise was sufficiently intelligible to me; but had I not understood it, I should have been assisted by the comment afforded by the voice of the people, when speaking of the same system and of the same personage. With the people, indeed, of every state, the noble lord was regarded with far different feelings. In him they saw the betrayer of Genoa; in him they saw the chief instrument, and the efficient organ, of that confederacy which had transferred the Lombards to their ancient tyrants; which had handed over the Belgians to an odious domination; which had partitioned Saxony, which, from the Alps of Norway to the Straits of Messina, had crushed the hopes of liberty, and had violated the rights and the very feelings of mankind. Such is the character under which the noble lord then and now presents himself to our continental brethren. And wherefore, and for what, has he sacrificed the fair reputation which he once enjoyed? Perhaps he fancies, that, at the ambulatory congresses, he is better received and holds a higher place amongst the Hardenberghs and Metternichs when trading, if I may use the expression, as the master of a nation of slaves, than as a minister of a people, governed by free and generous institutions. I fear that is the real fact; I fear that the noble lord imagines he is a more important member of congress, when he can boast that he can deliver up any unfortunate object of foreign persecution, than when he is not fortified with his Alien bill, and is only one amongst a nation of freemen, bound to protect foreigners by the glorious usage of many ages. But the noble lord surely deceives himself; he may be received with hollow smiles and pretended deference, but would he not be in reality a thousand times more important with the ministers of foreign states, if he still continued to represent a people true to their ancient character, jealous of their ancient institutions, the uncompromising protectors of the oppressed of all nations, and the resolute patrons of liberty in every quarter of the globe? In the more glorious days of our history, when a Milton wrote what a Cromwell dictated, we asserted our right to protect the oppressed even in the domains of foreign tyrants. Behold the unhappy contrast! we now drive the wretched objects of persecution even from our own shores, and are ourselves the accomplices of cruelty and despotism. This is a new feature in the face of tyranny; even those, not famous for mercy, have distinguished themselves by affording a refuge to the persecuted. The duke of Alva himself protected the Flemish refugees. The sanguinary master of Louis 13th received the Moors of Spain. Even Alexander 6th, a monster to his own subjects, was the protector of a Mahometan exile, the brother of Bajazet, who would have purchased his surrender at a price higher than the noble lord will receive for any of our foreign refugees. The practice and the principles of the once flourishing states of Holland have been already

quoted in former debates on this subject. The fact is, that this bill is contrary to all the soundest maxims of policy, as well as to the genuine interests of liberty. The fact is, that if these measures are to be the fruit of long civilization, all the ties by which the society of nations has long been knit together, will be gradually dissolved; and we shall return to that wild and savage character which it seems belonged to us when Horace described the inhabitants of this island as—

"——— Britannos hospitibus feros."

In those days, however, this trait was one of the features of a rude, suspicious liberty—now, it will be only one of the many signs of degradation and slavery. The existence of such a law has already made us despicable abroad. I have myself lived to see that commanding superiority of air and manner which distinguished an Englishman erect amongst all the nations of the continent, not only much lowered, but almost lost, and sunk into insignificance by the consciousness of partaking in the loss of national character, which this bill and similar traits of policy have caused. A few years ago there was no one of our countrymen so mean as not to feel himself protected, as it were, by the genius of liberty. But at this day there is no respect from others, there is no self-satisfaction, which makes us glory in the name of Britons. The measure which we give to foreigners here is meted out to us abroad—our gentry, our nobles, are made the objects of suspicion—are beset with spies—are watched and hunted from place to place—nay, there have been instances of a spot being as it were fixed upon for the abode of an Englishman of bad, that is, of liberal principles, as being the only place in which the jealousy of the sovereigns of Europe would allow so dangerous an incendiary to live and move and have his being. Thus it is that the continent and England are one vast prison, pervaded in every quarter by the eye of tyranny, without a corner of escape or refuge for the victims of oppression. We are, however, confidently told, that the power thus given to ministers has never been abused; that only nine foreigners have been deported under this act. If nine hundred had been sent away we should then have been told that experience had proved the measure to be most serviceable and requisite. Now, that almost none have been the objects of the act, we are desired to observe how fit our ministers are to be trusted with exorbitant power The truth, however, is, that the power has been abused, and must be, from the nature of it, abused. What was the case of Mr. Deboffe, who was threatened with transportation if he sold a certain book? what was the case of Mr. Befort detailed by sir Samuel Romilly in 1816, who was sent out of the country for corresponding with the miserable monks of La Trappe? What was the case of Madame Montholon, mentioned the other day by the gallant general, the member for Southwark? If used at all, there must be an ill use made of such powers. Allow me to state that we have a whole department which may make a most pernicious use of this act—I mean the colonial department. We heard it laid down the other night by the president of the board of control, as a notorious truth, that the colonies of states governed by popular assemblies, are worse administered than those of other forms of government. If so, many must be the abuses, and I need not say that many are the abuses, of our colonial administration. Suppose, then, a native of our colonies should come over here to complain of any grievance—suppose he should make himself rather troublesome to the secretaries for the colonial department—how simple a process to return for answer, that the Alien bill is in force; and if he still continues pressing, how easy to give him a discharge in full by a warrant ordering him out of the kingdom. I am not quite clear that the natives of Parga, who have been in this capital to reclaim some portion of that property which we had guaranteed and failed to procure for them, I am not sure that they have not received an intimation somewhat to this effect. At any rate, such a proceeding might be resorted to, and I see nothing in his majesty's government to convince me that it would not be resorted to if thought convenient. And here I must say, that I think the Westminster householders who petitioned the other day against this bill on account of the probability that it might operate to the prejudice of the queen, were quite correct in their view of this measure. I say that the manner in which the queen has been treated makes it probable that very unfair advantage will be taken of her —[Here a loud cry of Order from the benches below the Treasury bench. Mr. Hobhouse sat down—a loud cry of Hear! from the opposition benches—Mr. H. continued]. I see not how I am out of

order, but I clearly see the truth of the observation made by the Roman historian, that in the decline of a free state, there are many men more ready to rush into servitude than their masters are willing to require their submission. But, Sir, I was about to observe, that this bill must put into the hands of ministers the power of sending out of the country the witnesses whom the queen may summon from abroad. And who shall say that they will not exercise this power? When this was first hinted the other night, the suspicion was thought almost monstrous; it was said to be as bad as suspecting a primitive Roman of parricide. These mild, these moderate, these innocent ministers—these gentlemen whose whole life has been a sacrifice of their power and of their passions on the altar of public freedom—who have suspended none of our liberal laws—who have never come to this House for acts of indemnity—who have suffered the reins of government to float idly in their hands—who have added neither to our armies nor to our penal statutes—who have encouraged no prosecutions—who have abetted no massacres—in short, under whose sway the old Saturnian times seem to have been restored;—these disinterested statesmen are surprised, are shocked, that there is any one so hardy as to libel them with the suspicion that there is any power too great to be entrusted to their considerate hands. But, Sir, in spite of their notorious virtues—in spite of the forbearance which may be the characteristic of ministers, I confess I would not trust them, or any men with ten times their good qualities, with an excess of power. On this account, Sir, I think the Westminster petitioners, and the learned member for Knaresborough were quite right in asking for some guarantee against the possibility of this bill's being directed against the interests of the queen. The ministers, and perhaps the two Houses of Parliament, may satisfy themselves of the rectitude of their intentions; but the people of England are more than afraid; they feel assured, that all the proceedings against her majesty are stained with injustice of the deepest dye, and this persuasion has made them fear still further infractions of the principles of justice against that unfortunate woman.

Sir; this bill is merely a part of that fatal system by which the gentlemen opposite have thought it easiest to govern this country, and to coincide with the views of foreign tyrants.—I do not accuse the noble lord of a settled plan to establish a despotism upon the ruins of English liberty;—but I do accuse him of resolving to rule by such expedients as appear to him most easy and at hand;—and of adopting such expedients, however at variance they may be with the principles of our free constitution.—Hence our gagging bills—hence our standing armies—hence the avowed infringement on the ancient institutions of this once-happy country.—This Alien bill bears the same impression;—and is a part of the same plan of suppressing popular opinions in every country, and amongst all nations cursed by subjection to the holy alliance.—Yet if the noble lord would but look around him;—if he would recur to the experience of past times, he would be forced to acknowledge that such a system cannot finally be triumphant. Already has one nation shaken off the yoke; and who shall say that the example of Spain may not be followed by all the people of Europe, impatient of bondage, and only waiting for the fortunate moment which may enable them to throw off their detested chains.—I would pray the noble lord to pause in his career. If he thinks that the people of England cannot live with their ancient laws and rights, he may be assured that the people of England are convinced that they cannot live without them. They call upon the noble lord and his colleagues to restore to them the full enjoyment of those privileges which they inherited from their forefathers, and which they have done nothing to forfeit. Amongst those privileges they claim their ancient right of protecting all the children of misfortune—all the victims of despotism—they would still be able to say of their country as was once said of Rome,

"Hæc est in gremio victos quæ sola recepit.",

Sir; I conclude by moving as an amendment that this bill be read a third time this day six months.

Mr. *W. Smith* supported the bill.

Mr. *Monck* strongly condemned the bill. He considered it to grow out of a mysterious and undefined attempt to hunt down the liberal-minded men—the whigs of the continent—who were deserving of an asylum in this country. He was sorry to see a conspiracy formed against liberty, against all free and popular institutions; it was

not for Great Britain, herself so long the seat of freedom, to check the spirit of the age, and to oppose the progress of public opinion. He looked on the bill as inhospitable to strangers, and as disgraceful to the name and character of England.

Sir *R. Wilson* said, he had heard no arguments to make him view the bill in a more favourable light than he formerly did. He was glad the clauses which had been proposed had been rejected, as he thought it better the bill should pass with all its obnoxiousness about it. Of one thing he was certain, that whilst it continued to be the law of the land, the millions of the continent would consider this country as at war with their liberties.

The question being put, that the bill be now read the third time, the House divided: Ayes, 69; Noes, 23. The bill was then read a third time and passed.

List of the Minority.

Barrett, S. M.	La Touche, Robt.
Barham, Jos. F.	Monck, J. B.
Benett, John	Newport, Sir John.
Colburne, N. R.	Palmer, C. F.
Duncannon, viscount	Prittie, Hon. F. A.
Fitzgerald, Lord W.	Rice, T. S.
Fitzgerald, Rt.Hon.M.	Smith, Robert
Graham, J. R. G.	Smith, Wm.
Grant, J. P.	Western, C. C.
Hill, Lord A.	Williams, Wm.
Hume, Jos.	TELLERS.
Hutchinson, Hon. C. H.	Hobhouse, J. C.
Lennard, T. B.	Wilson, Sir R.

Sale of Spirits Bill.] The House went into a committee on this bill.

Mr. *M. Fitzgerald* complained of the regulation respecting the importation of Irish spirits as being most injurious to the Irish distillers, and a palpable infraction of the Articles of Union.

Mr. *D. Brown* agreed with his right hon. friend, that the act of Union was in this instance violated. He complained of the conduct of the chancellor of the exchequer as amounting to a breach of national faith: the clause which he had first introduced carried the appearance of benefit to Ireland, but the hope that had been raised for a moment was about to be extinguished.

The *Chancellor of the Exchequer* maintained, that in the whole of this question he had acted for the public at large, and without regard to any particular interests. He held it to be material to prevent, as far as possible, the consumption of spirits of an extraordinary strength, and such was his object in this bill. In Ireland, from long habit, strong spirits might be more agreeable to the palate than healthful to the constitution or improving to the intellect; but happily in England that habit had not yet been acquired. The practice in England always had been that spirits should pass through the stills of rectifiers, and he wished it to be applied to the Irish spirits imported. In the clause he should propose the importer would be allowed to reduce the strength himself, in the presence of an excise officer.

Sir *J. Newport*, after stating the claims of the Irish distillers, maintained that the law, as it existed in 1817, ought to be preserved, and as Ireland must submit to the disadvantages arising out of the act of union, she was entitled to its benefits also. He expressed a full conviction that justice would be done to Ireland, though the members of that country did not exceed one hundred.

Mr. *C. Hutchinson* concurred with his right hon. friend in thinking that justice would be done to Ireland, but was of opinion that the chancellor of the exchequer did not understand the question. Ireland had, according to the act of Union, a right to import the spirit without any alteration or reduction into the English market, and therefore he could not see the necessity for any investigation by a committee.

Lord *Castlereagh* concurred with the opinion expressed by the hon. gentleman. There ought to be but one feeling, to do what was right and just, and he hoped his countrymen would never form themselves into a body, in opposition to the interests of Great Britain. No arrangement could be expected to be permanent which was contrary to the rights of either party. It appeared to him that his right hon. friend's clause was either nugatory, or worse than nugatory; and he submitted to him, that it would be more advantageous to confine the measure at present to what the law confessedly was, and to let that law take its course till their meeting after the adjournment.

Mr. *Shaw* spoke against the clause, and insisted on the right of Ireland to the benefit of the clause adopted in 1817.

The *Chancellor of the Exchequer* consented that the bill should pass without this proviso.

Mr. *W. Smith* thought that the letter of the act of Union might operate against its spirit in this instance, and quoted the authority of Mr. Pitt in support of the con-

struction given by the chancellor of the exchequer. He conceived that too unqualified a concession had been made to the Irish interest, to the injury of the English distiller.

Mr. *Huskisson* contended, that the footing on which the matter would now rest was very fair, *viz.*—that the act of 1817 should expire, and that no further regulation should be made till the meaning of the act of Union had been decided on by a judicial sentence.

Mr. *M. Fitzgerald* said, the discussion on this question had not originated with the people of Ireland, who had only come, after a long period, to claim a remedy against an infraction of the act of Union. If a measure equivalent to this clause, violating in spirit, though not in letter, the article of Union to which he alluded, should be brought forward at any future time, he should feel himself perfectly at liberty to protest against it. He hoped the explanation of the noble lord was distinctly understood; and that the chancellor of the Exchequer would not introduce any measure to contravene the concession that had been made.

Mr. *V. Fitzgerald* expressed himself perfectly satisfied with the fair and candid statement of the chancellor of the Exchequer.

The clause was negatived, and the House resumed.

HOUSE OF LORDS.

Thursday, July 13.

MARRIAGE-ACT AMENDMENT BILL.] Lord *Ellenborough* rose to move the second reading of this bill. He strongly impressed on their lordships the necessity of carrying through this measure, and hoped that their own judgment and feeling would supply whatever might be wanting in his argument in its support. The Marriage act, which it was proposed to amend, he admitted was a law of great advantage to the morals of the country; but the amendment proposed to be made by the present bill originated in no speculative theories, but in a practical view of the defects of the law. His lordship quoted several cases of great hardship which had occurred under the act by the dissolution of marriages contracted during the minority of one or both the parties after they had lived as husband and wife for twenty or thirty years. In one case a marriage had been dissolved, though made with the consent of the guardians of the husband, because it was discovered that the will under which the guardians had been appointed was subscribed by only one witness. In another case a marriage which had been contracted with the consent of the mother of one of the parties, who erroneously supposed herself a widow, was dissolved after twenty years' cohabitation, the father, a seaman, having returned home after a long absence. In one of these cases seven children had been the issue of the marriage, and in another thirty-eight years had elapsed before the process for dissolution took place. The noble lord emphatically asked the House, whether this was a state of legislation consistent with the honour, the humanity or the religion of the country? Would their lordships consent that the law should continue in such a state, that an innocent woman could in a moment be deprived of all the respect and consideration she enjoyed in society, degraded to the state of a prostitute, and her children bastardized by a man, who, to accomplish that purpose, must take advantage of his own crime? They would not consent to see the innocent posterity of such marriages cut off from every prospect of respectability in life. They would not permit it any longer to be said that a single omission in a will should set aside a marriage made with the consent of guardians, and blast all the happiness and prospects of a numerous family. He called the attention of their lordships to the serious consideration, that, since the act passed in 1754, whole generations might be successively bastardized, in consequence of some defect in the marriage of the original ancestor. Though he approved of the Marriage act, he was ready to admit that, morally considered, every contract of marriage by mutual consent ought to be binding: and he thought that another marriage after such a contract was as much adultery as if the first marriage had obtained the consent of parents or guardians, and had been solemnized with all the forms of the law. This was the law of nature and of scripture. At the same time he was aware that the legislature of every country had the right of declaring in what manner property should descend; and as marriages of the kind to which he had alluded could not be contracted consistently with the system of law prevailing in the country, it was the duty of the legislature to discourage them.

He therefore did not object to the Marriage act generally, but only wished to have its imperfections corrected. In the case of the marriage of minors, he thought that, if the marriage was not made void before the parties came of age, it should then be held that the consent of the parents had been given. The parties would then be in the same situation as if they had married by their own consent after twenty-one years of age. There were cases in which, though the marriage was voidable during the life of the parties, it became legal on the death of either. This was a state of things which no legislature that respected its own consistency could allow to exist. In the case of a man marrying his wife's sister, which was by one branch of the law held to be incestuous, this anomaly occurred, and during the life of the parties a sham suit was sometimes raised to prevent the interference of strangers. He approved of a provision in an act of the Irish legislature, which plainly recognised the principle that the Marriage act should only apply to persons of property, and rendered it inoperative against the poor. The Irish act provided that the law should apply only to persons possessed of 100*l.* per annum, or personal property to the amount of 500*l.* On the grounds he had stated, he trusted their lordships would agree to the second reading of the bill, and give its provisions their full consideration in the committee.

The *Lord Chancellor* would have been deterred from opposing this bill, considering the virtuous principles on which the noble lord had rested its defence, were he not convinced that its tendency was, to injure those principles the noble lord wished to support. That there might have been, since 1754, when the Marriage act was passed, in consequence of mistakes of parties, many very unfortunate cases of marriage, was a proposition which he did not mean to controvert. These cases he sincerely regretted; and if this bill were intended for the relief of persons suffering under them, it would be a measure worthy of their lordships' serious consideration. Relief had been given with respect to marriages in chapels which were not consecrated before the Marriage act. That was a case in which an amendment of the act was necessary, because those marriages were universally believed to be legal, and *communis error facit jus.* He was surprised at the praise the noble lord had bestowed on the Irish legislature, the acts of which he seemed to think ought to make the English blush. The noble lord had also referred to nature and scripture: was it by looking to nature and scripture that the Irish legislature made one law for persons of property, and another for those of none? With respect to the case to which the noble lord had alluded, in which marriage was voidable during the life of the parties and not after their death, lawyers of eminence had always considered that a fatal aberration from the general principles of the law, and that it was an exception which ought not to be extended. But the noble and learned lord chiefly objected to the present bill on account of its retrospective operation, by which he contended the rights of succession to all property, since 1754, might be shaken. Morality and religion were better secured by the present bill, than they could be under the alteration. Were this bill to pass, young women might be more easily induced to marry under age, from their belief that they might rely on the man legalizing the marriage on attaining his twenty-first year. He was, however, anxious to give relief in all proper cases, as far as it could be done without injury to the rights of others.

The Earl of *Westmoreland* supplicated the learned lord to allow the bill to go to a second reading, as, in the committee, alterations might be made, which might remove the objectionable parts. If in the committee it was found that the objections could not be removed, and that no remedy could be afforded, the country must submit to the evils of the law, as it now stood; but even taking all the learned lord's objections to be well founded, the attempt to obviate them should at least be made. The present bill was an amendment of the Marriage act. It went upon the principle, that there should be a limitation to the time of instituting suits under the Marriage act; and he knew not why there should be a limitation in all cases of property, and none in the case of marriage. Sixty years was the limitation with respect to property, but even sixty years possession did not give a man a title to his own wife.

Lord *Redesdale* opposed the bill. It would, he said, take away rights already vested, and extensively affect the property of families. If any alteration was to be made in the Marriage act, it

ought to have a prospective, and not a retrospective effect. Titles to property might have been acquired on the understanding that the old law was to be continued, which would be annulled by this bill. All the evils to remedy which this measure was intended to provide might be guarded against by depriving parties of the right to marry by licence, and rendering bans always indispensable. The object of the Marriage act was to establish the fact of marriage; and this might be accomplished without the present bill, which was framed not to amend the existing act, but to destroy it.

Lord *Calthorpe* lamented that the learned lord on the woolsack should have felt it his duty to oppose the bill in this stage, as so many reasons had been urged in support of it. Their lordships were often called upon to administer impartial justice, and to protect the faith and sanctity of domestic life, which could not be done as the law now stood. If it was their duty at any time to examine the Marriage act with a view to amend its provisions or to supply its defects, the call became more pressing on the present occasion, when their attention was called to the awful task of administering justice on the subject between the highest individuals of the realm. Their lordships ought to consider whether they would be answerable any longer for a state of the law which inflicted more injustice and hardships on certain parties than could be conceived—which rendered that relation that ought of all others to be stable, permanent, and respected, liable to be annulled and destroyed without the allegation of a fault—and which was as repugnant to common sense as it was to common humanity.

The Earl of *Limerick* supported the bill, and regretted that the learned lord on the woolsack would not allow it to go into a committee.

The *Lord Chancellor* said, he could not prevent the bill going into a committee, but he could not think he should be doing his duty if he did not vote against it.

The House then divided: Contents, 32; Not-Contents, 26: Majority in favour of a second reading, 6.

HOUSE OF COMMONS.

Thursday, July 13.

TEST ACT.] Mr. *W. Smith* said, he had to present a petition from a respectable body of men, of whom he should not fail to speak in terms of eulogy if he did not himself form one of their number; he meant the Protestant Dissenters, praying that the House would take into consideration the situation in which they were placed, and praying the House to repeal the Corporation and Test acts. The petition was signed by 100 persons, and as almost every one of those persons was a member of a separate congregation, and might be said to speak the sense of every member of each congregation, he could fairly say, that though the House could not receive it as such, it was the petition of a great number of congregations. Indeed, if the petitioners had been willing to trust to the appearance of their number, more than to the strength and justice of their case, he could as easily have procured 100,000, and many more, as those 100 signatures which were now affixed to the petition. The case of the petitioners on which they relied was this:—many years ago, when there were grave apprehensions of a popish successor, and fears for the Protestant establishment, the predecessors of the petitioners assented to the propriety of certain tests, to keep out the influence of popery; and they also (under what he considered an erroneous view of the subject) lent themselves willingly to the enactment of tests which applied to themselves, and from which they might fairly have demanded an exemption. If he had wished to enter into an eulogium of the petitioners, he could not have done so in more eloquent terms than those which had been applied to them by his hon. and learned friend, who had brought in the Education bill, when he had occasion to speak respecting them. The petition was so worded, that while it claimed what the petitioners considered to be their rights, it spoke of the House and of the constitution in general, in terms as respectful as possibly could be. It would probably be his lot hereafter to found some motion on this petition: the petitioners courted an inquiry into their conduct, convinced that no class of men would be found more loyal or more warmly attached to constitutional liberty. They conceived they had been harshly treated in being excluded from the rights common to other classes of subjects, he meant eligibility to participate in civil offices, not actual participation, for admission to office must rest with those who administered the government. Ineligibility was

inflicted as a punishment on persons guilty of violating the provisions of the law, and generally in some very disgraceful and scandalous manner. In looking into the statutes for another purpose, that morning, he observed that revenue officers in Ireland who took bribes to neglect their duty, were rendered incapable of serving his majesty, a punishment that was inflicted without trial on the whole body of Dissenters. He moved that the petition be brought up.

Lord *Nugent*, in seconding the motion, observed, that the principle of exclusion from office, on account of a difference in religious opinion, had always appeared to him an anomaly in a free constitution and an enlightened age. He himself had a petition from that respectable body the Roman Catholics of England; and in declining to present it this session, he was influenced only by a consideration of the awful and immediate importance of that question which now engaged the public mind. He must, however, be permitted to say of it, that it contained a most satisfactory answer to the often-renewed charge of a divided allegiance.

Ordered to lie on the table.

BARRACK AGREEMENT BILL.] On the order of the day for the second reading of this bill,

Mr. *Calcraft* said, he would oppose the bill in every stage. Though the money to be voted for this object was trifling, yet in the present state of the country every 1,000*l.* deserved serious attention from that House. The barracks now under consideration were to be built for the second regiment of life-guards. The situation selected was the Regent's-Park. He had no objection to the building of barracks—he believed it necessary; nor had he any objection to the place chosen: but he objected to the *data* upon which the estimate had been formed, for he did not consider them formed on economical principles. The right hon. gentleman had said that this measure had become urgent, for that the regiment had had notice to quit. That was not the fact; the person whose buildings they now occupied would be extremely happy to continue to give the buildings either by lease or sale.

The *Chancellor of the Exchequer* agreed with the hon. gentleman, that in the present situation of the country, any expenses which could be avoided ought not to trench upon its resources. But this measure would not add to the actual expenditure of the present, or of any subsequent year. There were various expenses attending the existing barracks besides rent, and the average might be stated at 5,500*l.* The question then was whether they should continue the present arrangement without any certainty of the building, or adopt the course proposed with the certainty of having at the end an excellent building?

Lord *Nugent* said, it was no matter where the barracks were to be built, for how much or for how little money; he objected to building any new barracks. He objected to them for the precise reasons for which the noble secretary at war had recommended them. He thought it highly unconstitutional to destroy the connection between the citizen and the soldier; he thought it essential to our liberties, as well as consonant to our constitution, that "a circulation of feelings and interests, according to the constitutional language of Judge Blackstone, should be kept up between the army and the people, between the citizen and the soldier." Without this connection no country's liberties were safe while it kept up a standing army. He was not ashamed to avow these opinions, although they might be out of fashion in that House. They had been the feelings and opinions of the greatest men who had distinguished this country—of sir G. Savile and lord Chatham. They were the opinions of one whose writings, genius, eloquence, and public spirit cast a lustre over the period in which he lived—he meant sir William Jones. He wished the public opinions of that great man, enforced as they were by his virtuous life and his profound learning, were engraved in letters of gold in that House. The noble secretary at war had thought it desirable that a corporate spirit should be encouraged by means of barracks in the army. But this spirit he thought most dangerous in time of peace. It proceeded from the worst principles; it led to the worst events. It led to a military government. The military governments of the continent were all crumbling around us, and we ought, therefore, to apply the adage to ourselves. The only military government that remained undisturbed was the Turkish government, and it continued so because it was fortunate enough to shut out civilization and intellect. Where civilization

and intellect prevailed, military despotism could not maintain its ground. A military government was equally pernicious to the governors and the governed. It made the government itself dependent on the will, the fancy, the caprice, of the soldiers. This lesson we learned from the Prætorian guards of Rome, and from the janissaries of the East. At times they were the ministers of odious despots in the oppression of their subjects; at other times they were the dethroners of the wretched creatures who depended on their defence. Certain circumstances which had lately occurred had not decreased his alarm on this subject. When he had on a former occasion said, that the system we pursued led to military despotism, he had been told that he had spoken from the impression of political feeling. Be it so. He imputed no motives of the kind to government. But if we could conceive a government so wicked, and proceeding coolly to subject the country to the iron despotism of a military government, they could not think of better means than destroying all the precautions and peculiar establishments of former periods and covering the face of the country with barracks and depots. Posterity would, on perusing the history of the present period, read with surprise the answers given to the questions that would naturally arise from the present state of the country. Why was the country in 1818 on the verge of bankruptcy, the commerce of the nation paralyzed, the manufacturer ruined, and the agriculturrist and the mechanic involved in common want and misery? It was owing to the glorious and successful issue of a war for the purpose of obtaining indemnity for the past and security for the future! Why were the military doubled in 1819, and the face of England covered with barracks and depots? Why, were the finances ruined, and in the time of profound peace? The same answer must be given! He held in his hand the return made to his motion respecting additional allowances given to the guards. He recollected the phrase of the noble lord had been, that they would be found to be all in kind. Here the noble lord read, "9*d. per diem* for every non-commissioned officer and private, to be laid out by the commanding officer in victuals as he might judge best for the men." This money had been laid out unauthorized by paliament, unaccounted for to parliament, and not even mentioned in the estimates of the year. He did not mean to found a motion upon it. He only mentioned it as a part of a system which he deplored, and must ever continue to deplore while it existed.

The House divided: Ayes, 98; Noes, 40.

List of the Minority.

Abercromby, hon. J.	Hobhouse, J. C.
Anson, sir G.	Hutchinson, hon. C.
Bright, H.	Heathcote, sir G.
Bernal, Ralph	Lemon, sir W.
Boughey, sir John F.	Monck, J. B.
Barrett, S. M.	Newport, sir J.
Bennet, John	Newman, R. W.
Calcraft, J. H.	Ord, Wm.
Colborne, N. R.	Powlett, hon. W.
Calvert, C.	Palmer, C. F.
Coffin, sir Isaac	Philips, G. jun.
Calthorpe, hon. F.	Robarts, George
Duncannon, visc.	Rowley, sir W.
Davies, T. H.	Stuart, lord J.
Ellice, E.	Tierney, rt. hon. G.
Fergusson, sir R.	Taylor, M. A.
Fitzroy, lord C.	Wharton, John
Graham, J. R. G.	Wilson, Thomas
Graham, Sandford	
Grant, J. P.	TELLERS
Glenorchy, lord	Calcraft, John
Hamilton, lord A.	Nugent, lord

HOUSE OF LORDS.

Friday, July 14.

THE QUEEN—MOTION FOR A LIST OF THE WITNESSES IN SUPPORT OF THE BILL OF PAINS AND PENALTIES.] Lord *Erskine* rose and said:—My lords; having already given my opinion to your lordships upon the important subject now appointed for final consideration, and, at the same time, my reasons for entertaining it, I shall now detain you but for a very short time. I introduced it before on the sudden, in consequence only of what had immediately before been suggested by a noble friend not now present (earl Grey), whose opinions are always worthy of the greatest attention, and which stand in the highest place with me; but there being then no question before the House, I gave the notice which now brings us together; and it is not my wish that your lordships should depend upon any argument of mine, but that it should rather serve as an introduction, to draw out the sentiments of others to prepare you for a just decision.

When the matter was last before us, the noble earl opposite (lord Liverpool) observed, that there were two modes of proceeding; either after some previous

information to her majesty to proceed *de die in diem* at some future period, or after the witnesses for the bill had been examined to adjourn for whatever time might be reasonably required for proceeding on the defence; and the noble earl then said, that he thought the latter course was greatly to be preferred; but I did not then collect that he had decisively made up his mind on such preference; and as he is a person of an enlightened judgment, I cannot but think that, on reconsideration, his opinion may be changed; and if I had not believed this to be probable, I should have paused regarding my motion; being desirous that there should be no public difference of opinions amongst us before the trial should commence.

The course I mean to pursue will be shortly this: I will first advert to the practice of our criminal courts, and particularly as regulated in cases of high treason by the act of king William; and I shall then submit to your lordships, that the principle which governs this excellent statute, as well as all the common law rules of trial, for the protection of innocence, apply with tenfold force to the bill before the House.

The reason, my lords, of the high privileges conferred by the statute of king William, may be best illustrated by the cases to which they are confined.—They do not extend to all indictments for high treason, but to those only of the highest order, in which the state standing in a manner for its conservation, may be expected to put forth all its power, and to exert all its influence, against the accused. There is then no equality as in other cases between the Crown and the person whom it impleads, and he is therefore, to employ the expression which I did the other day, and which I then remembered to have used also, when at the bar—"He is covered all over with the armour of the law." There must first of all be ten days between the delivery of a copy of the indictment to the prisoner, and his trial, that he may have advice upon any objection in point of law that may appear upon the record; and the same period must elapse after the delivery to him of the names and accurate descriptions of all the jurors who are summoned to try him, that, beside such exceptions to any of them as he may be disposed to make for causes to be supported by proof, he may be prepared also, even without cause shown, to reject them by peremptory challenge; and, that such advantage may be more effectual, or, in other words, that the shield against power may be more protective, he has a greater number of peremptory challenges than are allowed in any other case. He has besides, for the same length of time before the day when he is to stand in judgment, the names, and accurate descriptions of all the witnesses who are to be examined against him, that he may know their characters and conditions, as clues to cross-examine or contradict them, if, under the influence of government, they shall depart from the truth; a privilege which, in my own time, and within my own personal knowledge, has saved the lives of the innocent. Yet this is not all; when even a mistake is made in the list of the witnesses, the Crown must abide by the consequences, to prevent any frauds upon this admirable law of reason and justice.

Having stated the value of this last protecting provision, I must here advert to the remark made the other night by my noble and learned friend on the woolsack, upon my not having then insisted that your lordships should be strictly bound by it, if farther evidence, as admissible in other cases to rebut matter in the defence should be necessary for the Crown, which he seemed to consider as the best, and a sufficient answer to what I am now about to propose. No man entertains a higher opinion of the talents and learning of my noble friend than myself, and I always feel his force the most when he is driven on the sudden to draw from the ample stores of his long experience; but for that very reason I was the more persuaded I was in the right, when even he could produce so little argument against me, though it was all that could be said. How, my lords, could it possibly be considered as a concession on my part, or as proceeding from a sense that the statute of king William gave too much, by my not insisting upon its binding obligation throughout? How could I have sought to bind you positively by the statute, when I could not but know that there was an express exception to proceedings in parliament on the very face of it? It was my business, therefore, when there was no positive rule to bind you, to ask what you were most likely to grant; and I only urged you, as I now most earnestly do, to govern yourselves in your high capacity, which can receive no positive rules from the law, by adhering to those which you have your-

selves enacted for the safe administration of justice, and which for more than a hundred years you have compelled the highest judges to submit to in their courts. But the best answer occurred at the moment to a noble friend sitting near me (lord Holland); but not wishing to trust myself with recollecting what he then said to me, I will leave it to him, who, I hope, will state it himself. We cannot, therefore, deny the justice, and even the necessity, of yielding to what is now demanded, without showing that the case before us is not within the principle of the act of king William, which I undertake to demonstrate that it is.

I know, my lords, that this statute has its adversaries and defamers. I do not allude to my noble and learned friend, who never complained of it on any of the State Trials; but I know that there have been nibblers at it, and grumblers against it.—I know that it cannot always smoothly accord with the headlong violence of suspicious and angry power; but he must be a bold man, nevertheless, who shall venture to repeal, or even to touch it. The people of this country are (as they ought to be) most loyal and affectionate to their government; but I think too well of them to believe that they would quietly submit to have such a mighty safeguard subverted, after the happy experience of it for so many years. When governments make just concessions to enlightened freemen, and for more than an age abide by them, they must never think of retracing their steps. In such cases, *Vestigia nulla retrorsum.* We have lived, my lords, in times when we have seen principalities and powers overthrown; but let the principles of our own free constitution be only held sacred and acted upon, and we have nothing to apprehend. This, at last, is a belief which rests upon the universal history of mankind.

Before we look to the ordinary proceedings of our criminal courts, where the statute of king William has no application, let us see whether it does not apply in principle with ten-fold greater force to the bill we are shortly to be engaged in, than even to trials for high treason, for the regulation of which it was specially enacted.

In the first place, the bill before us is not only a state prosecution of the highest order, but one where the power and influence of the government may be presumed to be active and predominant in a very extraordinary degree.—In most cases of high treason, the Crown and its ministers have no personal wrongs to stimulate resentment, nor any other interest in conviction than a general interest in the safety of the state; yet that has been thought for above a century, to be a sufficient foundation for the statute; but here the king himself is the person charged to be personally wronged, and might be said, but that the cause assumes a national character, to be personally the accuser, as the illustrious accused is charged directly in the bill "with a violation of the duty she owed to his majesty," not as his subject, for the act charged is no crime in law, but in violation of her duty as his wife.—This, my lords, gives an increased force to that great fountain of power and influence against which the accused has to contend; and it is impossible to separate the influence of ministers from that of the Crown. Let it not, however, be thought, that I am charging, or even suspecting, the sovereign of making unworthy exertions in the prosecution even of this personal wrong, or his ministers of a corrupt acquiescence in them if they were exerted; but the general presumption of law is entirely founded upon the probable abuse of power in trials of offences against the state; and it is impossible to [illegible], or evade that presumption by arguing against any probable injustice in any particular case, without overthrowing the very principle upon which the law you yourselves have enacted, and have so long abided by, can alone rest for its support. I am well aware that no rules can bind us, but how shall we escape from reproach, if we refuse to abide by those rules which we have made binding upon others, if the reason for their obligation applies equally or more forcibly to ourselves?—which I am in the course of endeavouring to prove.

The generality of the charge also, in the preamble of this bill (independently of its being against the state) adds most imperiously to the demand of the statute of king William. It is in effect a criminal charge, or it is nothing; yet it in no way resembles any other criminal charge ever exhibited here or elsewhere, by any court of justice; but above all it has none of that precision which is the very characteristic of English law. Her majesty is not charged with any specific act of adultery, but with an adulterous intercourse, and this not at any specified time or times, but during

her whole absence from England for six years together, which exposes her to criminating evidence not only as to acts, but general deportment on every one day or hour of the day throughout all that time; and this also not confined to any given place or places, though it was known that she had not been stationary, but constantly travelling through countries remotely distant from each other. I do not mention this as an arraignment of the framers of the bill, because not having sat upon the committee, and being a total stranger to the materials brought before it, I am not qualified to enter into the consideration of any difficulties that might have opposed a different course. It is quite enough for my view of the subject, that this unparalleled generality of accusation creates an unparalleled difficulty of defence, and thereby gives an unquestionable claim to know indirectly, by having a list of the witnesses, what ought to have been communicated directly, by specific allegations of the crimes she was to answer for.

In all cases of high treason under the act of king William, and indeed in all others independently of that statute, and in every indictment whatsoever, the particular treason, felony, or misdemeanor, must be specially set forth; so that even when lists of the witnesses are not granted by law to the prisoners, yet, as our criminal jurisdictions are universally local and consequently extremely limited, nothing can be more obvious than that the bulk of the witnesses may generally be known, the principal ones being to be found on the back of the indictment; and when they are thus known, their characters are readily known also, from their residence near the spot, and are sure to be sifted not only by relations and friends, but through the characteristic zeal of a generous English public:—but here, my lords, as the charges are spread over an immense and undefined space, and thoughout every day of a six years absence from this country, it appears to me, that, instead of denying any one indulgence of the statutes, others rather should be added, upon the universal principles of justice.

The same precision, my lords, attends all the proceedings of the ecclesiastical courts, and your own jurisdiction over them, in charges similar to those now before us. The libel in a suit for a divorce not only specifically sets forth the minutest history of the adulterous connexion which in this bill is charged with unexampled generality, but directly charges, both in time and place, the specific acts of adultery, and as they must be committed besides within the limits of the court's jurisdiction, the accused can be at no loss to anticipate by what testimony they are to be impeached, and the characters of the witnesses are for the same reason within immediate reach. The ecclesiastical courts, besides, have no such jurisdiction as your lordships in support of this bill are called upon to exercise; they can only separate the parties, but cannot dissolve the marriage; and when for that purpose a bill is brought into parliament, an action (when it is practicable to prosecute it with effect) must first be brought against the adulterer, and followed up to judgment, by which again the accused is made fully acquainted with the main body of the proof; and after all these advantages it must be gone over again at the bar of this House before any marriage can be dissolved; and what strengthens the analogy, these last cautious proceedings, though not enacted by any general law, are enforced by our own standing order, to prevent almost the possibility of injustice.

In the case before us, my lords, there seems to be a still additional claim upon us to comply with what I am now submitting to your consideration. Her majesty (as I have just said) is not charged with any specific acts of adultery, but in the most general terms with an adulterous intercourse, and with one individual only, whose station required his constant attendance on her person through the many countries she visited. Had the charge been of adultery committed with one or more persons, most probably of distinguished rank, from her own illustrious station, the very specification of such adulterers might have led to the knowledge of time and place, and have given some kind of clue at least to the probable nature of the proof; but in the present instance, it is most obviously and utterly impossible to anticipate, within years or within hundreds of miles, the assaults to be made upon her acts, or even upon her general deportment, which, without any example, she is called upon by this bill to answer for and to defend, and here too let me add, that if the adulterous intercourse, to use the language of the preamble, though not directly proved, is to be inferred from a

"licentious, scandalous, and disgraceful deportment," throughout a long period of time, and in various unspecified countries, that very circumstance enlarges the forum, and even changes the quality of the accusing testimony in a very extraordinary degree, and supports, in the same proportion, a more indisputable claim to know when and where such unexampled charges of unspecified acts of indecency are intended to be proved, that they may be encountered by contrary proofs.—I admit that where strangers are admitted to an improperly familiar intercourse with a lady so illustrious, a fair inference may follow; but where the charges are against an attendant, the attentions of duty may be more difficult to be brought within the presumptions of guilt. I am not trying the cause, my lords, and I desire it may be always remembered that I am in no manner presuming to anticipate the results of an inquiry, but am only proposing that we should be prepared to enter upon it with honour and with safety.

Another and the last analogy between this bill of Pains and Penalties and the allotted punishment of treason, when the statute of king William has application, still remains untouched: I mean, the severity of what is to be suffered. And what is that, my lords? What is death, which in a moment ends us, to the lingering and degrading suffering which the accused under our judgment may be sentenced to endure—Born a princess of the same illustrious house as the king her consort, and raised to wear the imperial crown of the greatest nation that ever flourished upon the earth, she may be suddenly cast down to shame and sorrow, not only excluded from the society of her exalted kindred, but from the esteem and affection of the whole female world! For my own part, my lords, this appears to me to be the heaviest and most intolerable punishment which any human tribunal can inflict.

Now, my lords, I am fully aware, more especially after what has already passed upon this subject, that, to all I have been saying, one very short and plausible answer may be given, viz. that a bill of Pains and Penalties is a very rare and a most anomalous proceeding, which cannot be brought to the standards of our courts of justice, and that there are, therefore, no precedents in the high court of parliament to vindicate what is asked from the House. It might be answered to me, in the language of the poet,

"Why has not man a microscopic eye?
For one plain reason, man is not a fly."

I admit, my lords, that this might be a fair way of mocking my argument, if I were endeavouring to bind you down strictly to all the forms of the inferior tribunals, without showing at the same time that common justice equally demanded their application, and that without applying them you cannot possibly be just.—All I ask is, that you may observe them, as far as I can prove that you can consistently with the fullest justice, due also, and certainly equally due, to the prosecution of this bill. Let it be shown that the giving the list of witnesses, as I have asked it, though given for above a century by the statute of king William, will endanger or disturb the fair right of prosecuting this impending bill with just and legal effect; let this only be shown, and not even as a certain consequence, but according to any probable or reasonable conclusions, and I am instantly silent; no vote of your lordships shall be called for; my motion shall be withdrawn; but when I am thus supported by all the rules of a most justly celebrated law, as well as by the most obvious principles of justice,—and when the absence of precedent is disavowed as being in itself an answer to what is asked, the burthen of the proof is, in the mean time, shifted from me, and must be cast upon those by whom my motion shall be opposed.

To prove to your lordships that I am sincere in this concession, I repeat again, that I seek to involve the House in no difficulties, but am pointing out, on the contrary, how they may be instantly averted, only by yielding to what is proposed. The noble earl opposite (lord Liverpool), when the subject was first mentioned, was pleased to say, and, I have no doubt, with sincerity and good faith, in his view of it, that no injury could possibly arise to the illustrious accused by the course he proposed to pursue, because as he said, there could be no doubt that upon the close of the evidence in support of the bill the House would consent to any reasonable adjournment which might be asked in preparation for the defence; and I have no doubt that such delay would be granted;—but surely, my lords, you cannot but see that nothing could be so unjust as such an adjournment, more especially when you might at once assimilate our proceeding to the ordinary course of trial by yielding to what is proposed, and which

you are the more bound to yield to, when no kind of clue is given beforehand even to guess at the accusing testimony. Upon what ground then, my lords, and with what safety to the accused, when such unexpected examinations are finished on the part of the Crown, can they be suffered to go forth to the public as even probable facts (which no exertion of our authority can prevent), creating a strong, perhaps an incurable, prejudice, although the witnesses have not been subjected to that examination by the accused which the law of England, independently of all indulgences by statute, imperiously and universally demands? Upon what principle, my lords, should such supposed facts, after having been thus suffered to circulate during perhaps two or three months adjournment, be reverberated upon your lordships, who are afterwards to decide upon their falsehood or their truth? How, besides, are those accusing witnesses, who have thus given their testimony, to be disposed of in the mean time? Are they to be dismissed, or suffered to depart without having been cross-examined? And how, with every legal restraint, are their returns for contradiction, perhaps for punishment, to be secured? And, besides this danger, would not cross-examination, after such an interval, come too late, when impressions, however fallacious, had been made? And where, also, are your lordships to be during all this time? When a criminal trial, of any description, extends beyond one day, the jurors can have no access even to their own families; and, without consent must be rigorously inclosed! Will you consent, my lords, to this restraint? No: you will go forth into public, and your honest judgments may be infected by the impressions of unsifted testimony surrounding you in all directions. You must go besides into the very court of the king, who is justified in having the strongest feelings on this most unhappy proceeding. It was said the other night by a noble friend of mine (lord Ellenborough), that your lordships have a double character, being not only legislators but councillors of the Crown; and that both those duties must be performed. This is perfectly true, but does it not increase the difficulties which, without the utmost caution, may affect the discharge of our duties as impartial judges.

Here, again, let me say that I disavow all personal suspicions of any of your lordships, even in this anomalous case, but what has your honour, or my trust in it, to do with this subject? The principles of universal justice, and, above all, the immemorial constitution of our country, refuse and condemn such a perilous confidence. With all your ranks and dignities you are but men; and all the safeguards against human infirmities, which the wisdom of ages has provided, apply at this moment to you more particularly than to any other tribunal, since it is so clearly in your own power to avert the main obstacle to an impartial judgment.

In saying this, my lords, I cannot avoid adverting to what has been called the Milan Commission, upon which being wholly ignorant of all that belonged to it, I shall make no comment, except one, which directly and unanswerably applies to the present occasion. If it was unjustly executed, it might affect the testimony taken under it, when it came to be produced hereafter; but of that I know nothing, and it is wholly beside the question now before us.—Undoubtedly, when even a private man suspects the fidelity of his wife, he has a right, by every fair inquiry, to see his way before he rushes into a court of justice; and in a case like this, when such an inquiry assumes a national character, it may be of a different description; but of whatever description this commission may have been, and supposing it to have been most fitly executed, it cannot but have secured the knowledge of all the facts that are to be resorted to, and of the witnesses who are to support them, and consequently removes all possible difficulty in making the communication, which is now submitted to the House.

These are my sentiments; and no man, surely, can reasonably accuse or suspect me of any leaning, beyond that of justice, to the cause of the illustrious accused: my leanings, if I could suffer their intrusion, would rather draw me to the opposite side: all your lordships must very well know, that I have spent a great part of my life in the service of the present king. I remember indeed so well, and feel so strongly, the remembrance of the warm interest taken by his majesty in my prosperity and happiness, in some of the most important periods of my life, that I could not be unjust to him. The habits of my professional life are, I hope, a useful shield against every bias whatsoever. I was bred, in my earliest youth, in two professions, the characteristics of which

are honour; but, after the experience of very many years, I can say with truth, that they cannot stand higher for honour than the profession of the law. Amidst unexampled temptations, which through human frailty have produced their victims, the great bulk is sound, and the cause is obvious—there is something so beautiful and exalted in the faithful administration of justice, and any departure from it is so odious and disgusting, that it raises up in the mind a perpetual monitor against the accesses of corruption.—The same protection ought to apply also to us as the highest of the judges; but giving credit also, as far as I ought, to the influence of high birth and dignity over minds not utterly corrupt and abandoned, and supposing that we could be safe in dispensing with the ordinary securities for justice, which no man ought rashly to pronounce; yet let us consider, my lords, the possible effect of such an uncalled for, unnecessary dispensation. When this House shall have deliberately and solemnly decided that the restraints, imposed by common law and by statute, to shut out all the approaches of mistake, influence, or corruption, may even, without necessity and without danger, be set at nought; may it not blunt that diffident reserve and caution which are the very characteristics of all our judicatures; may it not lead to the disregard, perhaps, even in the end, to the repeal of those admirable and now ancient rules, by which, though we have enacted them to govern others, we ourselves have refused to be governed?

Believe me, my lords, I feel upon this part of the subject, so inseparably connected with the illustration of our country, much more than by any words I can express. It may be superstition, perhaps, but I cannot alter the nature and character of my understanding; which, as long as I can look back, has dictated to me as a comforting truth, that the Divine Providence singles out particular nations, and perhaps even individual men, to carry on the slow and mysterious progress of the world, and for that purpose did eminently distinguish our country.—Though placed on the very margin of the globe, it has been its example and its protector, spreading the blessings of a pure religion and of equal laws to the uttermost ends of the earth. My impression upon this, my lords, has ever been, that such an unparalleled dominion is but a more exalted trust; and that if we fall off from the character which bestowed it, and which fitted us for its fulfilment, we shall, like sentinels who desert, or who even sleep upon their posts, be relieved and punished. Let us then walk in the paths of our best times; let us stand by the principles of the Revolution, which so happily made us what we are; and by adhering to which we shall remain what we ought to be.

My lords, I hope that what my duty to the House has compelled me to press upon it, cannot have given pain or offence to any one of your lordships. In one thing I own I am a trespasser, as I promised in the beginning to be very short, but the best way of obtaining pardon is by saying that my transgression is at an end.—Lord Erskine then moved to resolve,

1st, "That a list of witnesses, intended to be examined in support of the Bill, be forthwith delivered to her majesty's legal advisers, to enable her to prepare for her defence.

2d, "That the delivery of such list of witnesses shall not exclude the examination of any other witnesses, for the purpose of rebutting any evidence which may be given on her majesty's part on her defence.

3d, "That a copy of these Resolutions be forthwith sent to her majesty."

The Resolutions being read,

The *Lord Chancellor* rose. He assured their lordships that never in the whole course of his life did he engage in a duty which upon many accounts was to him so painful and embarrassing. Disagreeable, however, as the duty was, he was bound by what he owed to their lordships, by what he owed to the constitution, and by the reverence which he entertained for the due administration of justice, to obey the dictates of that duty, no matter what consequences his conduct might tend to bring about. He was very unwilling to advert to all that had passed with respect to this matter—he would consider the attempt to establish an analogy between this case and one of high treason, as abandoned—and all arguments which might be incidentally put forward with a view to revive this point, he would consider as having gone for nothing. Even the report which had been just made to their lordships, he would not advert to, because, whatever might be the effect of the inquiries of the committee after precedents, he was never of opinion, that in order to direct the course of the administration of justice in the present times, we should refer to those

days when accused persons were not allowed the opportunity of defending themselves, either as to the law or the fact of the case on which they stood charged. It must be perfectly obvious, that to attempt to trace precedents in such times which were to govern the proceedings of modern days, was a course against which every sound principle of British law and reason revolted. It was exceedingly true, that the object of the present charge was of a high and illustrious character, and required every attention which it was in the power of the accusing party to bestow; but the principles of justice must be rigidly pursued. He was sorry, he regretted sincerely to see attempts made to establish a distinction between this and all other cases of criminal accusation, in virtue of the station of the illustrious defendant: we were all equal in the eyes of the law, and it was the proud characteristic of British law, that the meanest wretch who was placed before the bar of a court of justice, was equally entitled to its tenderness as the highest subject of the realm. The poor man ought to be protected as well as the high; for he could not forget that

> "The poor beetle that we tread upon,
> In corporal sufferance feels a pang as great
> As when a giant dies!"

But coming immediately to the point under consideration, no man could deny that when a list of witnesses was given to a defendant, that defendant had acquired a very great advantage, and in many cases it was a fair advantage, in order to enable counsel to cross-examine the witnesses. It was frequently possible for counsel, by obtaining a previous knowledge of the witnesses names and residence, completely to blast their evidence —reduce it to ashes—and that too merely by a cross-examination. But in the consideration of the course which justice pointed out for the adoption of their lordships, they were to calculate first of all, whether or not a particular mischief was to be endured, in order that a general mischief might not be effected—whether or not, in order to accommodate a particular case, a rule was to be established, according to which it was impossible that justice could be administered in general cases. With respect to the statute of king William, to which the noble and learned lord had adverted, he (the lord chancellor) was not prepared to admit the imputation of being "a grumbler," to use the noble and learned lord's phrase, against it. The noble and learned lord he was sure would not say that he was. But he would recommend to their lordships to read the sentiments of a great lawyer, and a whig besides, Mr. Justice Foster, with respect to this statute. "The statute," said Mr. Justice Foster, "whatever may be its benefits in particular cases, works great injustice." The noble and learned lord, indeed, admitted the justice of this opinion, in the resolutions which he had submitted to their lordships; for he had altered and improved the statute. He did not object to that, for if the statute was excellent, the improvement must be more excellent still; but it proved one thing, which was this—that if the principle of the statute was to be adopted, they ought, even in the noble and learned lord's own opinion, to do more than was done by the statute. Upon the occasion in which it was his (the lord chancellor's) misfortune to be called upon in his situation as attorney general, to prosecute persons for high treason, he had felt it his duty to conduct the prosecution with a view to that statute, and he must say, that he found it very difficult to do his duty, regard being had to that statute. He was much abused at the time (and he honoured the feeling which operated in favour of the accused at all times) for the way in which he had executed his duty; but being called upon to prosecute, the statute told him that he could not examine a single witness whose name was not in the list previously furnished to the defendant. He found, that if in writing the name of a witness (a case which had occurred), the letter A was substituted for the letter O, though that witness was the most important, and, indeed, the main one, upon whose evidence the whole case rested—still he could not be called, in consequence of this misarrangement of the letters of his name. It therefore became the business of the attorney-general, not only to foresee and provide against all probable defects, but also against those which, by human possibility, might occur.—From the experience which he had had, and from the consideration of the facility of such an occurrence, he knew that it was possible that a successful defence might be made in cases of high treason, where a true defence could not be established; for although the defence which was imposed upon the court and the jury might be known to half the individuals present to

be a tissue of falsehood, yet if the conductor of the prosecution had not foreseen the nature of it, he could not call a single witness to contradict the false evidence adduced. With all these inconveniences flowing from the statute, he must yet be permitted to say, that he would not part with it; and had the noble, and, he would be permitted to say, the learned lord near him (for learned his noble friend certainly was in the law) been in the situation to experience the injuries which the statute sometimes inflicted upon justice, he would undertake to say, that that noble lord, who was as good-natured and as kind a man as there was in the world, would be much more inclined to grumble than he (the lord chancellor) had been in the course of his office. However, as he had stated before, with all its inconveniences, all its injuries, all its abuse before him, he would still say, "this is the law as it stands, and as it has stood—it is consonant to the opinions and feelings of the people, let it not be disturbed." But it was remarkable in the whole argument of the noble and learned lord who moved the resolutions, that he was compelled to dissent from the propriety of the doctrine of that statute itself, for he had said in his second resolution, "True, the law says, you must furnish a list of the witnesses in proceedings for high treason; but stigmatize those proceedings by adopting this resolution, because it is obviously unjust not to allow other witnesses to be called, than those whose names appeared in the furnished list, which the statute does not permit." Although, undoubtedly, it was a most legitimate mode of reasoning to consider what the great principles of justice require, and how far the wisdom of ages had adopted proceedings conformable to those principles, yet he would confidently ask whether the wisdom of any former age had ever suggested what was now proposed? In looking to the practice of past ages, he would go no farther back than the Revolution. And here he should beg again to recur to the resolutions of the noble and learned lord. The noble and learned lord had pressed their lordships to assimilate their proceedings as much as possible to those of the courts below. He (the lord chancellor) concurred in the recommendation, the more their lordships' proceedings were likened to those of the courts, the more partial would he be found to them. But in acknowledging this opinion, would he agree that parliament should divest itself of its peculiar functions, those functions intended for the decision of cases in which other courts were incompetent to do justice between the individual and the state. Their lordships would here remark, that when the statute of William passed, no provision was annexed extending its operation to parliamentary proceedings—nay, parliament went farther; for, by one of their acts, the act of 20th George 2nd, they declared not in express terms, but in substance, that the assimilation between the proceedings in parliament, and those of courts of justice, should go no farther than a permission to the defendant to be heard by counsel as to the law and the fact of the charge against him. No mention of, no indirect allusion, ever was made to granting a list of witnesses; and here he would ask of the noble and learned lord, than whom no man was more intimately acquainted with the proceedings in the courts of law, what would become of the civil and criminal administration of justice, if it was adopted as a general rule to prevail in all cases of criminal and civil process, that a list of the witnesses under the conditions annexed to it in cases of high treason, should be furnished on both sides, each to the adversary? No man was better calculated than the noble and learned lord, from his long experience of *viva voce* examinations, and his penetration, to determine the extent of mischief which such a regulation would introduce. The reason why the rule was not extended to all cases of accusation was this—that it could not be allowed with safety to prevail in such cases. Every vestige of justice would be destroyed by it. The noble and learned lord admitting in effect this principle, asked of their lordships to make an exception of the present case—but why, upon what grounds, or what pretence, the noble and learned lord had not stated. The noble and learned lord had spoken of the Milan Commission. Of that proceeding, however, he (the lord chancellor) would say nothing; but he felt that it would not be denied, and particularly by the noble and learned lord, that an *ex-parte* inquiry, conducted as that inquiry had been by persons of honour and integrity, might sometimes be the means of averting a most painful investigation. The noble and learned lord had argued as if this case might have been carried on more properly in the ecclesiastical court. It was a case, however, which could not be

sent to that court. How would their lordships enforce the trial? Would they order the supreme ordinary of that court, the acknowledged head of that court to do penance in a white sheet? He was at a loss to discover by what possible course the present case could be brought into or confined to the jurisdiction of that court. In all bills introduced into parliament for pains and penalties, it was usual to state the offence committed, in a similar manner with the present; in some cases the persons charged might be multifarious, but in the present the crime imputed was confined to one individual. The practice of parliament was clearly against the motion; and the question therefore was, whether, under all the circumstances, their lordships would sacrifice that principle by which they were governed in the general administration of justice, and especially of parliamentary justice, to the claim of a particular individual in a particular case? He was convinced that a great and essential constitutional principle would be sacrificed if the petition of the queen were complied with. If they merely took the practice of the courts below as their guide, he felt it would be inconsistent with the duty they had to perform. With these sentiments he did not say he should meet the motion with a direct negative, but he certainly must say with whatever reluctance—whatever pain of mind—he could not give it the sanction of his vote.

The Marquis of *Lansdown* considered the decision of this question important, not merely as it respected the illustrious personage implicated in the proceeding. The impression with which he had entered the House had been most materially strengthened by the speech of his noble and learned friend, which was one of the most convincing, calm, and dispassionate he had ever heard within the walls of parliament. He felt no inconsiderable degree of satisfaction, that the motion now brought forward had been announced by his noble and learned friend (after an incidental conversation, and not a debate as the noble and learned lord on the woolsack had intimated) before any application had been made on the part of the queen; and he hoped to be able to convince the House, that, in justice to her majesty, as well as in justice to the accusing party represented by the noble lords opposite (to whom he did not attribute any wish contrary to the administration of the purest justice), and in opposition to the feelings of no party whatever (unless it consisted of those who were desirous of seeing obstacles raised, and difficulties created, that would cast a slur and a stigma on the proceedings of the House) no resistance ought to be made to the resolutions of his noble and learned friend. Much had been said regarding precedents and analogy; and a long report respecting them had been read that night at the table; but he was prepared to contend that that report conveyed no information on which, with satisfaction to themselves, their lordships could act. It had been truly said, that if this great case were one to be governed by precedent, it would well become the House to institute an inquiry into the whole of them, and to collect all the information they contained on bills of this nature. No such suggestion, however, had been offered by those who originated this great charge, and they had most fitly abstained from such a proposition. The noble earl had manfully and rightly stated, that the House on this question was not about to follow, but to create a precedent; and, in fact, to make a new law, applicable to cases of this magnitude. He (the marquis of Lansdown) admitted—for he was bound to do so—both that there existed no precedent, and that no precedent had been followed; and he would defy any man to point out a single case against an illustrious individual which had been dealt with in the manner, and according to the forms, observed in this instance. There was no case of a bill of pains and penalties preceded by the inquiries of a secret committee, which had originated in that House; and he made this statement to show, that those who brought forward this measure—those who acted as accusers, were compelled, from the first, to abstain from referring to all precedents, and to rely on the particular circumstances of the case. Was it not, then, rather too much for those who had induced the House to abandon all precedent, and to violate all analogy—who had prevailed upon it to put to sea on this perilous voyage of discovery without compass or landmark—now to contend in favour of that very course which they had themselves deserted? From the speech of the noble and learned lord on the woolsack, it would be supposed that the House was now engaged in something conformable to the general law of the land, with its settled maxims and rules, its rights and wrongs, guarded and fenced round

by all those securities provided by the study and wisdom of our ancestors. The truth, however, was, that parliament was now exercising its own unquestionable functions; but if from former precedents could be collected any fountain or stream of justice, working itself clear, and enriching itself in its course, becoming at every turn more settled and more effectual, he should be the first to call upon the House to look back, and to justify itself by such a retrospect in the performance of that particular act of justice it was now called upon to discharge. It appeared, however, that such precedents as could be found were either totally unjustifiable, or justifiable only by the necessity of the case; and he would ask whether the House could be bound by the scattered and discordant materials discoverable in its Journals? Was it fair to require them to be bound by rules in a case which was not referable to any known rule, and to draw from those exceptions to all law an imperfect rule by which they should consider themselves bound? The way in which all great writers, all constitutional statesmen, had considered bills of pains and penalties was the very reverse of the view taken of them by the noble and learned lord on the woolsack. Hitherto it had been always said, that they were particular acts, justifiable only by extreme necessity. Blackstone, one of the most learned, industrious, and in some respects philosophical writers upon the laws of England, had delivered a very different and deliberate opinion. The moment he mentioned "bills of pains and penalties," he added, "I speak not of those; they are *pro re nata;* subject to no law, and referable to no law." Among the numerous compilations and digests upon every head and in every department of law, which at present loaded the shelves of students, where could be found the lawyer who had been so absurd as to endeavour to reduce to one head, or to consistent practice, the various courses pursued as to bills of pains and penalties? Even in this age of book-making, more especially of law book-making, such a desperate attempt had never been undertaken. The reason was, that all these cases arose out of circumstances that could not be anticipated; they were founded upon no precedent, and it would be just as rational for an astronomer to decide the erratic path of every comet visiting our system, as for a lawyer to define the rules applicable to bills of pains and penalties. To this extent, then, their lordships must admit, that as bills of this kind were generally adopted in opposition to the known existing law, to accomplish the ends of justice not to be attained in any other way, when they were driven to such a course, they would be bound to deal with the measure in the manner most calculated to vindicate the rights of all parties. It was because it was impossible for the accused party to meet any particular charge, or to examine any particular witness, with effect, that his noble and learned friend had introduced this motion, and had entreated the House to look at the particular circumstances of the case of her majesty. All precedent being disregarded as inapplicable, the House was justified, in the first place, in taking into its view what course would best contribute to the substantial ends of justice; secondly, it had to consider what would enable the House to reach those ends with the least unnecessary delay; and, thirdly, what was the mode of attaining them with the greatest degree of facility and convenience? As to the first of these questions, nothing had been stated which would lead noble lords to think that the cause of justice would be injured by complying with the wish of her majesty to be furnished with a list of the witnesses. On the contrary, he was prepared to show that the cause of justice would be promoted by avoiding that which was the greatest evil that could be encountered—an interruption in the proceeding, between the accusation and the defence. On this point he would appeal to the noble and learned lord on the woolsack, and to every tribunal in the country, which had uniformly held, that it was of the utmost importance that the party under charge should not be prejudiced by the evidence of the prosecution going forth to the public before the means of contradicting it, as far as it was capable of contradiction, had been afforded. Let it be recollected, too, that this might be turned both ways—against the accused and the accuser; because, though it was true the accused party might suffer from the uncontradicted proof of guilt, still, in an inflamed state of the public mind, it might recoil upon the accuser; if the adverse counsel had it in his power to state, that had the means been allowed, by granting a list of witnesses, he could have repelled every one of the assertions, and discredited every part of

the testimony on behalf of the prosecution. It therefore became noble lords on the other side to beware how they incurred this not less imposing though very opposite danger, which was only to be avoided by bringing the accusation and the defence as near as possible to each other. The question then was, how this object could be attained without inconvenience? In cases of treason alone it was provided by the act of king William, that a list of witnesses should compulsorily be communicated; but the noble and learned lord must know that by sufferance (which of itself proved the convenience), upon every bill of indictment a list of the witnesses examined was regularly endorsed. The proposition of to night did not call upon the accusers to tie their hands with respect to any subsequent evidence; and, upon the whole, he contended that there was nothing militating in the slightest degree against that solemn and sacred principle which he reverenced as much as any man, that in the exercise of a sound discretion (itself constituting one of the few merits and advantages of the proceeding now adopted), the House might give to the accused party all the benefits derivable from the act of king William; but at the same time reserve to itself the power of calling new witnesses, where they were necessary, and not wantonly obtruded for the purpose of creating delay. It was clear that ministers must be in possession of the names of all the principal witnesses, and must have a knowledge of their character, from the length of time that had elapsed since the evidence was placed in their hands; and, though he would not consent to the introduction of any practical difficulty, he was confident that none such could arise from the concession now required. On the contrary, without reference to precedents, because he (the marquis of Lansdown) did not admit their validity, the noble and learned lord himself would allow, that a communication of the names of the witnesses, and of the specific points of charge, might avoid that much greater evil, of an interruption in the midst of a proceeding, by a delay which the House would feel bound to grant on the mere statement of its necessity. Perhaps that delay might be one, two, or three months. And he would ask any man, whether such a course would not be much more contrary to precedent, much more contrary to all the ordinary rules of justice, and attended with a much greater degree of inconvenience, than would result from complying with the request of her majesty, when, for upwards of 12 months, the accusing party had been in possession of evidence which the accused party required only a month or six weeks to examine and overthrow? Not only would delay be avoided, but, as he had before stated—and it well deserved to be weighed—the House would prevent the possibility of its being held out, after the close of the examinations in support of the charges, and at a period when the public mind was in a state of the greatest inflammation and excitement, that the best means of exposing the foul and impure character of the evidence already adduced had been denied to her majesty. In this interval the whole subject would be canvassed and discussed, and the utmost inquiry and injustice would probably be done to one party, or to both. Upon those grounds he supported the proposition of his noble and learned friend, not as a matter of indulgence, but because he was convinced, that if it should be adopted by the House, it would further the case of general justice, and bring this painful and unhappy case to a more speedy conclusion.

The Earl of *Liverpool* said, there were few questions on which he could be more anxious to deliver his sentiments than on that now before the House; because he knew little of himself, and of his own feelings and disposition in a matter of this character and magnitude, if he could allow himself for a moment to doubt on which side the balance ought to preponderate. If, in the appeal of her majesty, or in the speech of the noble and learned lord, any well-founded claim of substantial justice had been made out, he hoped he should have been among the first to give it his consent. He was, however, ready to discuss the question on the general grounds taken by the noble marquis. He agreed that bills of pains and penalties were contrary to the regular course of law; and that the House ought not to be guided in such cases by any precedents, excepting as far as those precedents might be supported by the principles of substantial justice. On a former occasion, he had made this admission to the fullest extent that could be required; he had allowed that no precedents were to be found; but supposing they were all the other way, supposing they universally supported the grant of a list of witnesses, he put it to

the House, whether, whatever it might think of the inconvenience of the practice, it would have been easy for it to have rejected this application? On this account he said, that though precedents ought not to govern this case, they formed an ingredient matter of consideration; and if any light could be derived from them, he was anxious that it should be brought into the discussion. The noble and learned lord had directed a great part of his observations, and no doubt very properly, to the analogy between the present case and an impeachment for high treason, and had alluded particularly to the act of king William, which provided that a list of the witnesses by whom the charge was to be supported should be delivered to the party accused. On that question he wished to make a few observations at present. The noble and learned lord had said that several persons on his (the earl of Liverpool's) side of the House grumbled at that statute. Were he asked to declare his opinion upon it, he would candidly state, that though this statute was, in his opinion, liable to great objections, and though he doubted whether the advantage was equal to the inconvenience resulting from it, still he had no desire to disturb it. It was a law which had long existed, and under it justice had hitherto been done to all parties. When the question arose whether an indulgence should be granted to the Crown or to the accused, he would admit that the balance should incline in favour of the latter; but, without looking nicely at this law, it appeared to him questionable whether it should remain on the statute-book. The principle on which it was founded had always been a matter of doubt, not among mere smatterers in law and politics, but even among Whigs, and the greatest constitutional lawyers of the country. The 7th of Ann, ch. 22, had been introduced as an act of justice to the accused, and it expressly enacted, that the provisions of the law should not take effect, until after the death of the Pretender; the consequence was, that for 70 years afterwards, the law remained a dead letter. This statute of Ann, which was made for the purpose of explaining and amending that of William, had been for the first time acted on in the case of lord George Gordon. On the subject of this statute of William, his noble and learned friend had alluded already to the authority of the greatest constitutional lawyer that this country, or perhaps any other, had ever possessed; and he thought it important to call their lordships' attention to the opinion which that great lawyer (judge Foster) a man whose disposition led him to favour public liberty, had expressed on this very statute. He said, that "furnishing the prisoner with the names, professions, and places of abode of the witnesses and jury, so long before the trial, may serve many bad purposes, which are too obvious to be mentioned. One good purpose, and but one, it may serve. It gives to the prisoner an opportunity of informing himself of the character of the witnesses and jury. But this single advantage will weigh very little in the scale of justice or sound policy against the many bad ends which may be answered by it. However, if it weighs any thing in the scale of justice, the Crown is at all events entitled to the same opportunity of sifting the character of the prisoner's witnesses." By this law, which entitled the accused to a list of the witnesses for the Crown, while the Crown could not obtain a list of those for the accused, a great advantage was given to the accused; and therefore his noble and learned friend had truly said, that whatever might be the degree of perjury committed by the witnesses for the accused, it was not in the power of the Crown to bring forward a single witness to contradict them, unless those included in the list of witnesses' names furnished in the first instance. But there was no analogy between the case of high treason and the present case. He was surprised therefore to hear the noble and learned lord say, that the present case, which could be followed alone by the punishment of degradation, was to be compared to treason, which was visited with the punishment of death. He was surprised to hear the noble lord say so, there was no argument in the observation —to a mind full of honour and sensibility, he admitted that degradation might be looked on as a punishment more bitter than death itself, but the law did not enter into those feelings, the law was made for all, and it marked the highest crimes with the highest punishment. He had, therefore, no difficulty whatever in stating, as an abstract principle (without wishing to disturb the existing law as to high treason), that more injustice than real good was likely to arise from the indulgence in question, and for that opinion he had already quoted the greatest authority. It might give the accused the means of

preparing a false defence, and it also gave him the power of acting by threats, and intimidation. Thus, instead of forwarding, it waylaid justice; and might prevent witnesses from coming forward to prove the charges alleged against the accused. If what the noble lord said was true, that the hand of power was directed against the accused, well might it be said on the other hand that the power of popular clamour was in favour of the accused, and against the Crown. He was willing to abide by the principle which was held in courts of justice. No more could be fairly asked. If any code of law in this world was deserving of praise, was full of mercy and of tenderness to the prisoner, it was the code of English law. Go to the tribunals of foreign countries—to the new-modelled laws of the continent, new modelled with the best intentions, and for the interests of the people,—but how much were they below the free and humane spirit which pervaded the English law; a spirit so favourable to the accused, whilst at the same time it animated and supported the cause of public justice—which gave equal advantages to both parties, and left even to the unsuccessful no ground to complain. The noble marquis said it was the custom in cases of ordinary crime in the courts below to annex a list of the witnesses on the back of the indictment, and to furnish the party accused, or his solicitor with a list of the witnesses. The fact was not so. The names of the witnesses were only written on the indictment to go before the grand jury; and he himself had known many instances where only a very small number of the witnesses for the prosecution were inscribed on the indictment to go before the grand jury, and many witnesses were afterwards adduced on the prosecution whose names never went to the grand jury; therefore the cases were not analogous. He now came to apply himself to those principles and precedents which had relation to this particular case; and he was prepared to maintain, that the very mode in which the noble and learned lord had put the question respecting a list of witnesses was sufficient to give it a decided negative. If a list was to be delivered at all, it must be a full list; for, if not full and complete, it might deceive the party accused instead of being an advantage. That a full list could not be granted in this case was so evident, that no noble lord had attempted to support such a proposition. The present course of proceeding had been objected to on the ground that an impeachment originating in the House of Commons would have been more proper. But if that course had been pursued, what would be the result—what would become of the list of witnesses so clamorously called for? Why, in cases of impeachment, the Houses of Parliament were entitled not only to examine fresh witnesses, but had the undoubted right to bring forward new charges, and therefore if the mode were adopted which the noble lord called just and constitutional, not only new witnesses might be examined, but even new charges might be preferred. The objection, therefore, on the ground that a proceeding by impeachment would have given the accused the advantage of knowing what witnesses were to be produced at their lordships' bar, was not well founded. Their lordships did not sit there merely to try an issue between two parties with their mouths closed; they sat there to administer great and high powers, and in the exercise of those powers, and in the pursuit of truth, they had an undoubted right to call to their bar whatever witnesses they might think fit. They were not limited to such evidence as the accuser and the party accused might think proper to bring before them. Their lordships might recollect that but a few years ago a cause of great public interest was tried before them, and facts of the greatest importance were extracted from witnesses, not called by counsel at either side, but by some of their lordships. He admitted that there were many crimes which could only be reached by impeachment; but still he would maintain that there was a power of probing testimony in that House which no other tribunal possessed; and, if there was any case more proper than another for their lordships cognizance, if there was any case in which the utmost latitude of investigation was necessary, it was such a case as the present. But the noble and learned lord had maintained that the course pursued by the ministers of the Crown would create great inconvenience—that it would cause great delay in the progress of this unhappy business; but he (the earl of Liverpool) would say, that even after the list of witnesses were furnished, that list might be found incomplete; many circumstances of great importance might transpire, which might render it extremely necessary and proper for counsel to ask for delay; not

could he see on what grounds their lordships could possibly refuse such an application. He was quite sure, that if he had the honour of appearing before them as counsel for the illustrious lady whose conduct was called in question, he would feel himself justified, under such circumstances, to apply to their lordships for delay. The argument founded on the plea of inconvenience and of delay naturally fell to the ground, because both would follow the course contended for at the other side; who did not propose to do what they contemplated completely; and the consequence, so far from being serviceable to the accused, might be most injurious. He repeated that their lordships would obviate no inconvenience by agreeing to the present proposal. It was not proposed to give a complete list; and by an incomplete one the accused party might be entrapped and insnared. He therefore hoped their lordships would act consistently with the uniform practice of parliament, and not consent to give any list of witnesses. He had shown that, in acting thus, there would be no injustice done to the accused, and that opinion was supported by the great legal authority which he had quoted. He had stated his reasons for thinking that this indulgence would operate not fairly, but most unfairly; and he would leave it to their lordships to judge which of the two was likely to have the greater effect in thwarting the course of justice—the power of the Crown, or popular clamour, highly excited as it was at the present moment. Far was he from wishing that justice should not be done. Let the accusation be fairly and unequivocally set forth; let the witnesses be then heard in its support, and afterwards let their characters or testimony be sifted to whatever extent might be required; let a fair, he would say a liberal advantage be given the illustrious accused to make every preparation for her defence, but let their lordships take care, while securing the full possession of those just opportunities, that they did not go a step further, and adopt a course which, instead of facilitating, was more calculated to impede the attainment of that great object which they all had in view—full and substantial justice.

Lord *Holland* said, the conclusion of the noble earl's speech was directly at variance with the principles with which it set out. The noble earl had just stated his wish that the House should adhere to the uniform practice of parliament in withholding a list of the witnesses, and yet, when he opened his objections to the motion, he had distinctly admitted the argument and the principle of his noble and learned friend, that this was not a case in which the House was to be bound by precedents. Precedent, the noble earl had said in the commencement of his speech, might be an ingredient, but it was not the leading principle by which their lordships were to be guided on this occasion; yet throughout the whole of his speech he had argued that the same rules and precedents were applicable here as in ordinary cases. The noble earl had lauded, in eloquent language, the administration of justice in this country, and had represented it as commanding the admiration of every foreigner. He (lord Holland) admitted the justness of these remarks; but why had the noble earl introduced an eulogium on the British law at the moment when he was departing from it? Let not their lordships "lay the flattering unction to their souls" that this proceeding was to be dignified with the name of British law; it was not law, but an exception to the law. The noble earl had stated the reasons which rendered an adherence to rules and precedents desirable; he had said, and justly, that the House were not to look at the hardship of a particular case, but were to be regulated by general principles; they were even to incur the odium of not doing justice in a particular case, in order to avoid the greater evil of doing injustice in all other cases. But surely the exception could not be the rule as well as the law! How was it possible for them to say to this illustrious individual, or to any accused party—"Your situation is so extraordinary, that the common and ordinary course of law cannot reach you, and we are obliged to deviate from the great fundamental principles of justice in all free and civilized countries?" Their lordships might indeed hold that language to an individual, if the case were one to which ordinary rules were not applicable; but were they to answer an application from the same individual, in the same case, by saying, with something that would look very like hypocrisy, "We are tied down by rules—we know the proceeding is a great hardship on you, but we must consider other cases—we must remember, that, while we are deviating from all precedent, we are establishing a precedent." He implored their lordships to pause and

reflect on what they were doing. Were they not converting accusers into judges? Were they not confounding the duties of jury and judges—of petty jury and grand jury? Were they not acting in the threefold character of prosecutors, judges, and jury? And yet they were to say they were bound by rule! by what rule? He remembered a saying of some great and wise man—he believed lord Bacon—at all events, it was more natural to ascribe any thing wise and profound to that eminent writer than to any other; the saying was this—"The forms and rules of law are like the rind and bark of a tree, which, though no part of the substance of the tree, protect it from the inclemency of the weather;" and this remark, he thought, might be well applied to the general rules and principles of parliament. It would be as just to suppose that strength was added to the tree by preserving the bark, as to the laws by preserving exterior forms, without regarding the substance they were destined to protect. He should now proceed to make a few observations on the statute of William relating to high treason. He had heard from his noble and learned friend behind him, one of the most eloquent panegyrics which he had ever heard pronounced upon that great act,—great, as it extended protection to the subjects of this country, and as it held up a splendid example of justice to every nation in the world. He would not be suspected of favouring a party known by the name of Tories; but he must say, though his predilections were not in favour of Tories, that, whatever other political sins had been ascribed to those individuals, the country—he had almost said the world—was indebted to them for that act. It had originated in the recommendation of a committee of that House of Commons by whom the bill of Rights had been passed; but, when first brought up, it had not been acceded to by the House of Lords; and he expected to hear a loud expression of triumph from the other side when he stated that the chief cause of its rejection was the introduction of that clause which enacted that the trial of a peer for high treason should take place, not before a commission appointed by the House of Peers, but before every individual in the House. With respect to the provisions of this statute, it was said by the noble earl, that proceedings before parliament were excepted from their operation; but the noble lord had not adverted to the principle of that exception. A person accused of treason, and prosecuted by the Crown, was supposed to contend against the strong arm of power, and therefore the law wisely and humanely fenced him round with the safeguards provided by this statute. But in proceedings before parliament, which constituted the exception, the law withheld the armour with which it defended the person accused in cases of crown prosecutions, on the principle that the prosecutor was not clothed with the same power. He would now ask leave to say one word as to the calling of fresh witnesses to speak to new facts which might arise in the course of the trial. The noble earl had said that it would be much better not to give a list of witnesses at all than to give an incomplete one. He was, however, of a very different opinion, and thought, as they were sitting there on a most anomalous proceeding in criminal equity, they ought to give the illustrious party accused every privilege. The noble earl had likewise said, that it was in the case of treason alone that a list of witnesses was given to the accused. This was true to the letter; but he would ask whether, in fact or practice, it was in cases of treason alone that persons knew of the witnesses to be brought against them, and the nature of the accusation which those witnesses were to support? Would the noble earl say that there was one case in a hundred—nay, would he say that there was one in ten thousand—in which the person arraigned came to the bar with so little knowledge (he would not say *de jure*, but *de facto*) of the witnesses and the charges against him, as that with which the illustrious personage now accused would come before their lordships? He was willing to rest the success of the motion upon the answer to that question. He did not believe, that when, in other cases, a copy of the bill of indictment was presented to the person under accusation, it was absolutely requisite to give him at the same time a list of the witnesses; but he would put it to any noble lord, whether, when an individual was brought before a magistrate, that magistrate did not confront him with his accusers, or at least show him the information upon which proceedings were instituted against him. The noble earl might draw an ingenious argument from the practice of the courts below, and say that the magistrate was not compelled to have recourse to either of

these measures; but even though that were the case, the witnesses and the charge were generally well known to the accused before he was put upon his trial; therefore, in practice, the analogy which had been drawn was in favour of the motion of his noble and learned friend. The noble earl had that night become the champion of the privileges of parliament, and said he would never submit to parliament being bound to any rules except its own. He (lord Holland) held as highly as the noble earl could do the power and privileges of parliament; but he confessed that he, for one, did not exactly understand the rules which had been adverted to by the noble earl; and he did not like to submit to rules whose nature he did not understand. There had been a considerable argument upon the extraordinary functions of parliament. Now he must ask what the extraordinary function was which they had to exercise? It was the function of applying to a particular case a power which the other courts of justice did not possess; he meant their discretion; and he trusted that that discretion would be exercised in such a way as to obtain justice. And this was what the noble earl himself exhorted the House to do. He said that they were not to look to the specific charges before them so much as to the justice of the whole case; and he then went on to prove that the mode of proceeding he had recommended would not produce a greater interruption than would otherwise occur, which interruption was stated to be the principal evil at present. But here he would observe to the noble earl, that he must either argue upon precedents entirely, or else he must throw them completely overboard. The noble earl must not at one moment say that they were acting upon precedent, and, at another, that there was no precedent to direct them. He must also remind the noble earl that many of his arguments did not apply to this case, for they proceeded upon the supposition that this measure was an impeachment, which the noble earl knew as well as himself it was not. The illustrious personage now accused had therefore a right to say to the noble lord, "If you proceed against me by impeachment, follow the precedents which have been established in impeachments. If you proceed against me by common law, give me justice according to the common law. But if you proceed against me in an arbitrary and as yet unheard-of manner, which partakes neither of the nature of an impeachment, nor of the process of the common law, give me the justice which belongs to the case. You have taken a great discretion upon yourselves; exercise that discretion as you ought." The noble earl had said (and it was much to his honour) that he had not taken into his consideration any of the precedents which occurred before the Revolution of 1688. If however the noble earl had not done this, he (lord Holland) should like to know why they should take into their consideration those flagitious acts which had been passed to serve the tyrannical purposes of the day. He, for one, would not go into that register of crime and bloodshed. He was content to take his precedents from those which had occurred, if indeed any had occurred, since that period. He wished, however, that the noble earl had pointed out the cases to which he was desirous that the House should adhere. He wished indeed that the noble earl would select any two cases since the year 1688, in the English parliament (he would not advert to what had passed in the parliament of Ireland), in which, in bills of Pains and Penalties, the one had been guided by the other. The noble earl, he was well aware, was too generous an opponent to quote the cases of Plunket and the bishop of Rochester as different cases; they were in reality the same; and, if the noble earl did not deny that position, his (lord Holland's) argument was unanswerable. He must again observe, that this was an anomalous case; that it was an extraordinary exercise of the functions of parliament, and on that principle, he contended every possible indulgence ought to be extended to her majesty. There were many reasons why this motion ought to be granted; first, it ought to be granted if it was not likely to defeat the purposes of justice; next, because the proceeding was in itself of a most singular and unprecedented nature, being a proceeding in which parliament were called upon to receive evidence both in a legislative and a judicial character; thirdly, because the third branch of the legislature would, after their lordships and the other House of Parliament had decided on this matter, be called upon to pronounce as a judge as much as their lordships; but from the peculiar nature of the situation of that branch there was not much chance of the usual assent being refused to this bill.

Let their lordships look to the situation in which the House of Commons would be placed. The noble earl had said, that, in a case of impeachment, the House of Commons would not be precluded from making new charges, and producing new witnesses in support of them, during the course of the trial; but then, however severe the powers were with which the House of Commons was invested in cases of impeachment; properly invested, he would allow, for the security of freedom, though greater than those possessed by a grand jury; the party impeached had the advantage of the *ex-parte* evidence taken against him being taken before a public, and not a secret, tribunal; in short, he knew the general nature of the evidence, and the witnesses to be produced in support of it. He had been told indeed, and he could not dispute the position, that her majesty, when her case came before the House of Commons, would have that advantage. But on that very account he thought that their lordships were bound to look to their own characters. They ought particularly to mark what that circumstance called upon them to do; they ought to consider what was due to themselves, to their characters, to the verdict which they were called upon to give, and to the approbation which that verdict was to meet from posterity. In the House of Commons her majesty would have the opportunity with a previous knowledge of the charges and the evidence, of cross-examining every witness; a privilege which had been described as of inestimable advantage by his noble and learned friend, the ornament of the English bar, who had formerly exercised it so ably. What, then, would follow? That the case on which the House of Commons would have to decide would not be the same with that on which their lordships would decide; it would be infinitely more favourable to her majesty. He therefore implored their lordships, as they regarded their interests and their character, to give the accused as good an opportunity for making a satisfactory defence before them as she would possess when she came before the House of Commons. That opportunity she could not have if their lordships did not accede to the present motion. Much greater advantage was gained from the cross-examination of a witness than from rebutting his testimony by the evidence of others. On this account, and because he thought that the reason of the thing and the application of her majesty demanded it, he should vote for the present motion. Before he concluded he had one remark to make regarding bills of Pains and Penalties. He would not say that they ought in no case to be introduced; but this he was prepared to say, that, if they were to be considered as necessary, the obscurity of their nature formed an additional item in the long catalogue of objections which he must see overruled before he, for one, could consent to them. In the anomalous proceeding against the earl of Middlesex, in whose impeachment the duke of Buckingham, after his return from Spain, took so active a part, James the 1st had observed to that favourite with much more point, but not with much more delicacy than he generally used;—"Stenny (his familiar appellation for the duke), you are preparing a rod for your own breech." This afterwards actually was the case. He therefore wished to impress upon their lordships, that, when they deviated from precedents and strict law, the first deviation was not in general the last. Public men ought particularly to recollect that, bills of Pains and Penalties were convenient methods of destroying a public adversary; and so far procuring a delay between the time of the accusation and of the defence, had hitherto been defended upon the necessity of dispatch, though oftener, he would allow, because the accused party had escaped beyond the immediate reach of the law. Indeed he did not know that there was any better way of showing how little those who proposed the bill had been guided by principle in this peculiar case, than by reminding their lordships that this proceeding, which was now instituted for delay, had often been instituted for reasons diametrically opposite. The present was an anomalous exercise of their lordships' power, and therefore they ought to be guided by the special circumstances of the case, and not by precedents of former bills of Pains and Penalties, which were totally inapplicable to it. He was apprehensive that he had already more than sufficiently fatigued the House; and he should therefore sit down with expressing his hearty concurrence in his noble and learned friend's motion.

Lord *Ellenborough* allowed that the present was a novel proceeding; but said, he could not sit still and listen to the rules that had been laid down for the government of the proceedings of their lordships'

House, and the arguments which had been adduced in support of the course recommended by some noble lords. The House, was not left without a law or precedent of its own upon which to act. A wider space for the admission of evidence might be fairly argued; greater facilities might be extended to the accused; he, for one, should wish that every latitude hitherto granted since the period of the Revolution might be afforded to her majesty, consistently with the rules of the House, to enable her to establish her innocence. But what was the fact?—her majesty asked more—she demanded an exemption from the ordinary rules of law, which were never granted to any except in cases of high-treason; by a peculiar act of parliament which he did not consider the wisest part of our legislation. That, he would not consent to give her. Was there any thing in the nature of the present proceeding which ought to entitle the accused to privileges of an equally high character as those granted to defendants in such a situation? He thought not. Nothing, in his mind, could be a more suitable mode of proceeding, than the present; except a proceeding at once by a bill of Attainder. Here he would not repeat the powerful arguments which had been urged with so much effect by the noble earl opposite; he agreed, however, with him in the conclusion he had drawn, that an innovation like that now attempted, might be pregnant with the most dangerous consequences in future, which it might not be so easy to repair. Parliament had behaved towards the queen in a way which reflected honour upon itself. He thought that the proceedings against her majesty had been conducted in as favourable and as lenient a manner as the nature of those proceedings and the spirit of the constitution allowed. Their lordships were not to consider what was favourable to the Crown or what was favourable to the queen. All that they had to consider was, what was justice and what was truth; and in order to come to a right conclusion on that subject, he should negative the motion of the noble and learned lord. Indeed, if it were granted, he wished to know what advantage it would produce to her majesty? Owing to the absence of the judges on circuit, the investigation had been put off to the 17th of August. Was it possible, that in the interval her majesty could procure that evidence which it was affected she would require, and which it would be necessary to search for in a very distant part of Europe. How did the present application agree with the wish her majesty had expressed to go to trial on twenty-four hours notice? In plain truth, it was evident that this application had been made with the intention of creating a popular effect. And that was in itself a reason why it ought not to be granted. But were this consideration even waved, and a list of the witnesses granted to her majesty, he must remind the House, that a mere misnomer in the list might be productive of calumny. Was it possible so to describe the persons, living as they did in various parts of Europe, as to preclude the possibility of the accused party saying that the witnesses were not to be found from their descriptions? It should be recollected, that in inserting only one of those multiform foreign names in the preamble of the bill of Pains and Penalties, to guard against a misnomer it had been introduced by an *alias*. The omission of a single letter in a foreign name might be objected as a probable cause of injustice to the accused. Opportunities of discovering errors of that nature would not, in the present day, be lost for want of zeal or attention, but on the contrary would not fail to be laid hold of with a view to mislead public feeling, and distract attention.—Was there ever known, in the annals of this country, a case where it was so necessary to bring the witnesses to the bar of the House, unawed and untouched? Never. And yet the conduct which had already been pursued in one of our sea-ports, within a few days might be considered sufficient to afford a rather unpromising presage for the future. Let her majesty have a fair opportunity of disproving the charges against her, but first let them have the evidence upon record, let them know the nature of the accusation, and then let her majesty have a full and ample opportunity of rebutting it. This he was most ready to grant; but he could not forget that the queen had pressed on their lordships' House the necessity of a speedy trial, at only a notice of twenty-four hours. There was no man more disposed to do her majesty justice in that House, but he protested against the fanciful analogies which had been drawn that evening, as notions not founded in law or in the precedents on record in the proceedings of that House. He was determined, throughout the whole

of this transaction, to adhere to the practice of their lordships in similar cases, and the spirit of the common law. In doing so, he was satisfied, he should act a conscientious part; and he was also persuaded whenever the House should be persuaded to depart from that spirit it would neither do justice between the illustrious parties concerned, nor obtain from the nation the reward of public respect.

Lord *Holland* could not understand what the noble lord meant by talking, as he had done, about popular effect and popular clamour. If the noble lord alluded either to him or to his noble and learned friend who had brought forward the motion, he flung back the imputation with scorn, and would tell the noble lord that it was a most unparliamentary proceeding to attribute improper motives to any noble lord. If, however, the noble lord alluded to the illustrious individual whose case was before their lordships, he would then tell the noble lord that he did not envy the feelings nor admire the charity of that individual who could impute motives which he could not know, and which it was impossible for him to prove, to a party labouring under such heavy charges as the illustrious personage in question.

Lord *Ellenborough*, in explanation, said, that from the respect which the noble lord knew he felt both for him and for his noble and learned friend, he must have been aware that he (lord Ellenborough) could not intend to impute to either of them any design of exciting popular clamour. Neither had he any intention to impute any such motive to her majesty. What he alluded to was the mischievous spirit that pervaded every part of the metropolis; and the efforts made to influence the public mind. It was impossible for a man to walk along the streets, or to take up a newspaper, without witnessing the dangerous extent to which that spirit was carried.

Lord *Holland* expressed himself satisfied with the explanation afforded by the noble lord.

The Marquis of *Bute* felt too anxious as to the result of this motion to give a silent vote upon it. The appearance of the times was fearful, and he prayed to God such times might never come again. Amazing anxiety existed abroad, and there was little less within doors. If the case was different from other cases of divorce, how then could their lordships apply to it the ordinary rules in such cases? It was called a bill of Pains and Penalties, but, in his opinion, it differed very little from a bill of Divorce. He entirely differed from the noble lord who had just spoken, regarding the inutility of granting a list of the witnesses to her majesty, because she could not inquire into their characters within twenty-four hours. He thought that as some of them were stated to have been persons in the employment of her majesty, and indeed must have been so as they were to speak to her private habits, the knowledge of their names, if it was only twenty-four hours before they were examined, would be of some importance to her in her defence, and upon her cross-examination of them. He maintained that, as the bill now before their lordships went to degrade her from the rank and dignity of queen of Scotland, and as she was entitled by the laws of that kingdom to a list of the witnesses to be exhibited against her, it was unjust to refuse them to her when she was to submit to a trial before the peers of that nation as well as before the peers of the other parts of the united kingdom. He likewise reminded their lordships, that the bill now before them might not be the only bill introduced into parliament against the illustrious lady. Supposing her to be found guilty of the charges produced against her, might not a bill of Exclusion be introduced to prevent her succeeding at any future time to the British throne, to which it would be recollected that she would, in case of the death of certain and not many individuals, have a legal title in her own right?

Lord *Belhaven* said, he could not give his vote on this occasion without making a few observations. They were about to pass a law, which would deprive her majesty of rights, which she would otherwise possess. In such a case it was their lordships' duty to afford her majesty every opportunity of conducting her defence. Her majesty asked no more than that which, according to the laws of one part of the British dominions, was allowed to every subject, and to which she was entitled. He could not help expressing his surprise, at hearing certain noble lords opposite, and who owed so much to the people, raise their voices against what they called "popular clamour;" to hear them exclaim, the people meant to trample on them, to direct them, and so on. He remembered the

time, to use the words of the poet,

"When Europe bowed beneath the yoke,
And Austria bent and Prussia broke,
And the firm Russian's purpose brave,
Was barter'd by a timorous slave."

At that period the noble lords who now decried popular feeling, called for and found their best resource in the people. There was a maxim of Divine authority which ought to govern noble lords on reflecting what would be their hopes and fears were it possible they should be similarly situated with her majesty,—"Do unto others as you would they should do unto you." He was determined to support the motion.

The Earl of *Carnarvon* felt it necessary to make a few observations on this very important question. It was urged on the other side, that there were many difficulties interfering against the present motion. He did not wish to refer to the strange bill now in his hands, and upon which they had proceeded so far without any one of their lordships (save the secret committee), knowing the grounds of the measure, or the contents of the fatal bag upon which it was founded. The preamble of the bill contained, at least, what was considered the front, if not the sum of the offending. And a part of that preamble was such nonsense, as to be scarcely worth repeating. It commenced by stating, that, "Whereas in the year 1814, her majesty Caroline Amelia Elizabeth, then princess of Wales, and now queen consort of this realm, being at Milan, in Italy, engaged in her service, in a menial situation, one Bartolomo Pergami, a foreigner of low station, who had before served in a similar capacity." Where, he would ask, was the charge of criminality in this? The preamble went on to state, "And whereas the said Bartolomo Pergami, or Bergami, had so entered the service of her royal highness the said princess of Wales, a most unbecoming and disgusting intimacy commenced between her royal highness and the said Bartolomo Bergami, and that she had not only advanced him to a high situation in her royal highness's household, and received him into her service, and that in high and confidential situations about her royal highness's own person, but bestowed upon him other great and extraordinary marks of favour and distinction, obtained for him orders of knighthood and titles of honour, and conferred upon him a pretended order of knighthood, which her royal highness had taken upon herself to institute without any just or lawful authority." What was the amount of this charge? If the bill itself was sufficiently ridiculous, which he was convinced it was, he was at a loss to find an epithet strong enough to brand the refusal to the queen to see the names of her accusers. What, in fact, was the charge against her majesty? A tissue of insinuations rather than accusations—hints loosely thrown out, no particular overt act whatever. Perhaps such company was not the best; perhaps such society was not the most eligible for her majesty, but could she choose better? Was the queen in a situation to make a selection, or rather had not every effort been made to exclude her from a possibility of a choice of companions for the last fourteen years? But admitting the charge to be true, what was in it? Did it furnish a ground for the House of Lords to act upon? Did it justify a grave proceeding by a body that claimed, in this instance, the highest prerogative, that of legislating and judging? Their lordships were not, could not be ignorant of what would be the fate of a proceeding in a court of law, founded upon such a superstructure, without point, without an overt-act stated, without possibility of joining issue—no judge could receive—no jury could determine upon it. It was equally repugnant to law as it was offensive to common sense. But again it was said "her majesty had promoted this menial, and that by her interference he had had honours heaped upon him." Where was the crime in this? If to raise from obscurity worthless beings—if to make them the depositaries of the capricious favours of kings were a crime, God help the sovereigns of Europe! Was there never known an object more unworthy his sovereign's favour than this?—he did not pause, he did not call for a reply; for he feared he had not to go far from home to be answered in the affirmative. Having finished this part of the preamble, in which he conceived there was no charge, he came to the second, namely, that "her majesty, still farther unmindful of her high situation, &c. was guilty of an adulterous intercourse, &c." Really, if there was any substance at all in the charge, it was contained in these words—"adulterous intercourse," which, strange enough, were put in only as an adjunct to the first allegation. But what was meant by the introduction of these words? Was it contemplated to bring a charge of a distinct act

of adultery against the queen? If so, then she ought to be apprized of it. If it was not, where was the weight of it? "Adulterous intercourse," construe it in its broadest sense, could mean no more than "traitorous intercourse," and was there ever an instance of a man's being executed upon such a charge of treason. This bill contemplated degradation and divorce. How could either be done without a distinct charge of adultery? He put it to the rev. prelates opposite to say, could adultery be sustained upon such slight grounds. He contended, therefore, that a distinct charge should be made against the queen. But if it was the object only, by naming a multitude of offences, of which, the probability was, not one half would be proved, to raise a prejudice against the queen, he would wish to see such intention avowed. But why should not the queen, if she had no distinct charge to meet, at least have opportunities of meeting the witnesses, the only substantive and tangible part of the accusation. It was easy to accuse—easy so to colour every action of one's life, as to erect it into a crime; but it was extremely difficult to meet an ideal and unsubstantive accusation. If it was the case (but of that he, of course, knew nothing) that her majesty was conscious any one act of her life might be taken hold of, her proofs would be directed to that object; but the prosecutors might not hit upon the same circumstance, and indeed it was very probable that such acts (if any), which attracted the attention of the queen most, would be those which would be passed over unnoticed by the accusers. It was, therefore, more necessary that the queen should have all possible facilities of defence. The public, and the queen herself, required more distinct charges before the House could proceed. It had been said over and over that where there was no specific charge, a court of inquiry could not take cognizance; yet, under circumstances exactly similar the House of Lords found itself warranted in continuing its proceedings. He wished, for the honour of that House, a more manly course had been adopted, and on all these grounds he would give the motion of his noble and learned friend his warmest support. With regard to the bill itself, he was convinced it was too late to oppose it now; but he would enter his protest against it, as well on account of its uncertainty, as because he thought it contained rather insinuations than charges. But he again implored their lordships to give the accused every facility which justice demanded, and the law sanctioned.

The Earl of *Lauderdale* said, that there was no precedent which could guide any of their lordships on this occasion. The analogy which might be derived from other cases did not apply to the mode of proceeding now proposed. He should limit what he had to say to the grounds on which his noble friend had proposed this motion. He opposed the motion, on the ground that to accede to it would be to defeat the ends of justice. And here he would ask, whether his noble friend had called upon them to give such a list of witnesses as was mentioned in the act of William? He had done no such thing, but had reserved to the House and to the accusers the power of bringing forward new witnesses. What justice would this do either to the accused or the accusing party? Of what advantage would it be to give in a list of witnesses to the accused party, if other witnesses might afterwards be added to them? Did it not allow the accuser the power (although of course he imputed no such intention to them) of giving in a false list, and of sending the accused to look after those who were either nonentities, or had nothing to do in the cause, whilst they were keeping those whom they actually intended to call as witnesses secure in the back ground? On the other hand, did it not give to the accused party the opportunity of tampering with or intimidating the accuser's witnesses? He was sure it did not require much persuasion after recent experience, to convince their lordships of the necessity of protecting their witnesses. Who could say that the description of these witnesses would not meet the public eye, and if they did, who could answer for the consequences. He did not hesitate to say, that the national character had been disgraced by the treatment which some of the witnesses had already received; and he had little doubt that, if the names of the other witnesses were known, they would be equally maltreated.

Lord *Erskine* replied. If it was once proved to him that his motion would have the effect of hindering the progress of justice, he would that moment withdraw it.—He was, however, far from being convinced by any thing which occurred to-night that it would have any such effect, and was therefore determined to press its adoption

upon the House. His motion stood on the principle, that it was justified both by the act of William the 3rd, and by the practice of the courts of this country, in which suits for adultery were tried. In the Ecclesiastical Court, when a woman was charged with adultery (and the difference of rank could make no difference in the justice of the case), all the circumstances which it was necessary for her to know both with respect to the specific accusation, and to the means by which it was to be supported, were communicated to her. The noble baron had said, that he would grant her majesty as much as the law permitted, but not more. He put it to the noble baron to point out a single instance in which, when a woman was charged with adulterous intercourse, the information which he had described was not communicated to her? Nine out of ten of bills of Pains and Penalties originated in the House of Commons; and by the time they arrived in that House the accused was acquainted with all the evidence, and had the power to examine such fresh witnesses as might be deemed expedient for the defence. On a charge affecting the queen's conduct, going as she did from one place to another for upwards of six years, her majesty was in his opinion clearly entitled to a list of the witnesses against her He repeated that his motion was founded on the analogy to the statute of William. He was shocked at the answer which had been made by the noble earl opposite to the argument growing out of that analogy. The noble earl had said that the act of William was in abeyance until the trial of lord George Gordon. He called upon the noble earl to do more, and to tell the House how important had been the advantages derived from the act since the period of its execution. He (lord Erskine) had been personally concerned in many cases of high-treason where lists of the witnesses were communicated to the accused, and could therefore speak to the benefit of the proceeding. He denied, most strenuously that the verdicts in the cases to which he alluded were unjust, or that they were the result of popular clamour. This would be evident on an examination of the merits of the trials of lord George Gordon, and subsequently of Hatfield, the proceedings in the latter of which especially had been translated into all the languages of Europe, and had been generally eulogized (among others by the celebrated Madame de Stael) as affording the most admirable example of British jurisprudence. It was rather too much to adduce in hostility to the act of William, the opinion of a puisne judge—a man whom he nevertheless allowed to be an individual of considerable learning and integrity—he meant Mr. Justice Foster. It was rather too much to adduce Mr. Justice Foster against a statute law which had existed for 120 years. That act had been called a Tory act. If so—if it proceeded from Tories, it was only an additional proof that God had created no animal which was not of some use or other. According to some noble lords, the present proceeding was one which seemed likely to set the world on fire. Those noble lords talked of popular clamour. In his opinion, that which was so called in the present instance, was only popular feeling. What was the cure for that feeling? Justice. He again intreated their lordships to accede to his motion. They had a right to reject it, because they were supreme, but they ought to grant it, because they ought to be just.

The House then divided:—For the motion, 28; Against it, 78: Majority against the motion, 50.

List of the Minority.

Duke of Grafton	Besborough
Bedford	Darnley
Portland	Rosslyn
Hamilton	Viscount Clifton
Argyll	Downe
Marq. of Lansdown	Lord Saye and Sele
Bute	Ducie
Downshire	Belhaven
Earl of Thanet	King
Jersey	Holland
Cowper	Foley
Hardwicke	Auckland
Grosvenor	Yarborough
Carnarvon	Erskine.

The question being put upon the Resolutions, the House divided: Contents, 28; Not-Contents, 78: Majority, 50.

HOUSE OF COMMONS.

Friday, July 14.

PETITION OF OLIVE WILMOT.] Mr. P. Moore presented a petition from Olive Serres Wilmot. The petitioner stated herself to be the legtimate daughter of the late duke of Cumberland; she asserted that she possessed a document to prove the solemnization of a marriage between her mother (who was Julia Wilmot, the

daughter of the late Dr. Wilmot) and the late duke of Cumberland, in 1767. The duke had subsequently married another lady, on account of which his marriage with the petitioner's mother was concealed. From this cause the petitioner, who was born in 1772, had been deprived of property which should have descended to her. She stated that she possessed a document with the sign-manual of his late majesty, acknowledging the validity of the marriage of her mother.—Ordered to lie on the table.

The Jews.]—Mr. *Hobhouse* said, he should, in the next session, bring before the attention of the House, the situation of a class of his majesty's subjects which might, and ought to be ameliorated. They had last night heard mention of the situation of the Catholics and Dissenters; he should shortly call their attention to the situation of the Jews, who now laboured under disabilities which would be hardly believed to exist in such an age as this, and especially in London, and other cities of the empire.

Barrack Agreement Bill.] The House having resolved itself into a committee on this bill,

Mr. *Calcraft* said, he had learned that one reason for the great expense with which the building of these barracks was to be attended was, that a wall was to be built inclosing a large tract of ground. He wished to know how many acres were to be thus inclosed.

The *Chancellor of the Exchequer* allowed that the building of a boundary wall formed a considerable item in the estimate. He did not know the quantity of ground inclosed, but he believed it was eight acres.

Mr. *Calcraft* thought it was most improvident to spend a large sum in building a wall round eight acres of land for the accommodation of 400 men. He should divide the committee on the main clause.

The *Chancellor of the Exchequer* said, the wall was to be built round a piece of ground for the exercise of the troops. The barracks in question were not like those in Hyde Park, near a place where they could exercise their horses, as the whole of the Regent's Park was laid out in inclosures or plantations.

Mr. *C. Calvert* thought this pretence for building a high wall round eight acres of ground was absurd. There were near the Ophthalmic establishment inclosures of more than eight acres, where the cavalry might exercise, without the necessity of any such wall being built.

Mr. *Wilson* said, that if new barracks were to be built, they certainly ought to be built with the utmost economy. In the present case the wall seemed to him to be superfluous, and he was of opinion that the whole contract betrayed great mismanagement. If the money had been raised at the present market rate of interest, the country would have been burdened with an annuity of only 3,000*l.* instead of 5,400*l.* Under these circumstances, it seemed to him that the House was bound to throw this measure back on the right hon. gentleman, and force him to make a better bargain for the public.

Sir *H. Parnell* said, it was trifling with the House and with the country to propose a vote of this kind at a moment when economy was so loudly demanded in every department of the state.

The committee then divided:—For the motion, 50; Against it, 33; Majority, 17.

Irish Distillery Acts.] The House having resolved itself into a committee on the Irish Distillery acts,

The *Chancellor of the Exchequer* rose to state to the committee his plan for regulating in future the process of distillation in Ireland. The plan would consist of three parts, and with regard to each of them he should submit a resolution on the groundwork of a distinct legislative measure. The first would relate to large stills, of a capacity to contain 100 gallons; the second to smaller stills, not working above 2,000 gallons in the year; and the third to the more effectual prevention of illicit distillation. The right hon. gentleman particularly observed, with respect to the last measure, that it would enable persons to seize unlicensed stills, and, having done so, they must apply to the grand jury of the county, who were to make a presentment for their remuneration, which would be subject to the revision of the judges. The right hon. gentleman concluded by moving, "That the chairman be directed to ask leave to bring in a bill to provide for the more effectually collecting and securing the duties on spirits distilled in Ireland, in stills exceeding 100 gallons."

Sir *J. Newport* was of opinion that the system of warehousing, which appeared to be connected with one of the bills, was in

itself good. If the charge of warehousing was too low at present, it would perhaps be proper to augment it. The warehouses should, however, be kept in the hands of government, and should not be placed under the control of the distiller. If a contrary practice prevailed, it was likely to operate very much against the revenue; and, though it was his inclination as well as his duty to support the just rights of the distiller, he felt that he was no less bound to see that no injury was inflicted on the revenue. Whatever the right hon. gentleman could do for the establishment of small legalized stills would, he thought, be beneficial to the country. There was one other point to which he wished to advert, and that was, the great advantage that would arise from the establishment of breweries in Ireland. If that object could be effected, it would tend more than any other to root out the pernicious custom of drinking spirits.

Mr. *Chichester* said, a number of Irish members had waited with great anxiety to know what measure the right hon. gentleman intended to propose with respect to small stills. Their expectations were, however, disappointed, since it appeared that small stills were not to be allowed within twenty miles of the greater stills, and also that the small distiller was to be restricted to the distillation of 2,000 gallons yearly. The manufacture of spirits, to that extent would not pay the distiller the fair interest on his capital. There was another objectionable point in this new plan. It appeared that the instrument to prevent fraud with reference to the strength of spirits, was to be applied to small stills only, while the owners of those of large capacity were allowed to do as they pleased. The effect of this would be to deter men of small capital from entering into a pursuit where they were likely to be met by such powerful competition.

Mr. *Hutchinson* hoped that the suggestions which were thrown out by different members for Ireland, on this very important subject, would be weighed and properly appreciated by the chancellor of the exchequer. That right hon. gentleman was undertaking a very difficult task—the task of regulating the spirit trade between the two countries. If he could assist the revenue, and at the same time satisfy the distiller, he should rejoice very much at his success. Any regulation by which illicit distillation could be prevented would, he was sure, meet with the warmest support from the legal distiller. It appeared that two of the right hon. gentleman's bills went, the one to regulate large distilleries, and the other to support those of a smaller description. He feared that the latter would not be found to answer the purposes of the revenue. The system had, to a certain degree, been acted on in Ireland and in Scotland, but he believed no benefit had been derived from it.

General *Hart* did not think the present measure would be useful. The quantity of spirits which the small distiller would be allowed to manufacture would produce so small a profit, that few individuals would embark in the trade. With respect to the still-fine system, it placed the country in a situation almost as bad as if it were invaded by a foreign enemy. Persons had been appointed to the situation of collecting officers of the worst character. On a former occasion he had stated the case of a person who had been wounded by one of the individuals to whom he had alluded, but who had afterwards been pardoned, although condemned in a public court of justice.

Mr. *Grant* was surprised that the gallant general should have made these observations at so late a period of the session, particularly as a petition had been presented on the subject, and a bill was afterwards proposed which had been suffered to drop. He was not ready at that moment to enter on any debate respecting the conduct of the excise-officers, but he should be obliged to the gallant general if he would restate the circumstances relative to a person being wounded.

General *Hart* said, that three persons, who were in the pursuit of individuals engaged in illicit distillation, had overtaken a man in a pass, with a wall on one side and a river on the other. The man surrendered to their command, and yet one of the officers shot him through the body. This officer, he should observe, had been previously tried and convicted of an assault.

Mr. *Grant* remarked, that the case referred to by the gallant general was that of an officer, who, having been found guilty of an assault, had suffered the proper punishment. He was afterwards tried under lord Ellenborough's act, with another person, for wounding a man, and he was capitally convicted. His case was afterwards considered, and, on the recom-

mendation of the lord-chancellor and others, his sentence was commuted for transportation.

After some further conversation, the chairman was directed to move for leave to bring in a bill for regulating the collection of the revenue in Ireland, upon stills of above 100 gallons; also a bill to permit the establishment of stills under 100 gallons in that country, and also a bill for more effectually suppressing illicit distillation.

HOUSE OF COMMONS.

Saturday, July 15.

THE QUEEN'S PLATE.] Dr. *Lushington* said, he regretted extremely the absence of the noble secretary of state (lord Castlereagh); but he was, nevertheless, obliged in his absence to bring under the notice of the House a subject which he should rather have wished had fallen into other and abler hands. It became his duty, however, in consequence of the absence of her majesty's solicitor-general, private notice having been given to the noble lord to whom he had alluded, that such a motion would this evening be made—to submit the subject, which was one of considerable importance to the judgment of the House. The circumstances out of which the motion he was about to make arose were as follows. In 1808, his late majesty was pleased to order a service of plate to be made, which he afterwards bestowed on her present majesty, who was then princess of Wales. She continued to use it from 1808 to 1814, as her own private and personal property. On proceeding to the continent, in 1814, her majesty placed it under the charge of Mr. Mash, of the chamberlain's office. On her return to this country she caused application to be made for the restoration of the plate, which then became necessary for her use and convenience, and he greatly regretted to state that the lord-chamberlain was pleased to authorize this answer—"that the plate could not be returned to her majesty, because it was the property of the Crown, as would be made to appear from official documents." Her majesty naturally felt herself greatly aggrieved by the treatment she had received from government; but little did she expect that, in a case where her comfort and convenience were concerned, nice points of etiquette would have been raised, for the purpose of depriving her of articles which were not only necessary to her as befitting the high rank she held, but were also necessary as connected with the habits and manners of every individual moving in an elevated rank of society. But so it was, in addition to the numberless insults, oppressions, and indignities that had been heaped on her majesty, this last, the most despicable, the most base, the most petty, the most contemptible, had been resorted to. He could not conceive what satisfactory answer his majesty's ministers could give for persisting in this cruel line of conduct. He trusted they would not shrink from the responsibility which their situations imposed on them. If the conduct adopted towards her majesty in this and other instances were indefensible, on them alone must the responsibility rest. If it were answered to him, by ministers, "we stand on the strict rule of law, and as this is the property of the Crown, her majesty has no right to demand it," he would reply, "has she not the same title and the same right to hold and to enjoy this plate as other branches of the royal family have and do exercise with respect to similar presents? Have they not received and enjoyed, without interruption, similar presents bestowed on them by the late king, who had himself enjoyed the presents received from his predecessors?" Should such an answer as that which he had supposed be persevered in by ministers, it would be most unsatisfactory to the country. The queen having been deprived of a residence in one of the royal palaces—having been deprived of those outward insignia of respect, the keeping up of which was, perhaps, more for the honour and dignity of the Crown than it was grateful to the individual who wore it—he hoped every person would oppose this last pitiful insult, the depriving her majesty of those articles which were necessary to her comfort in her private residence. He trusted the chancellor of the exchequer would come forward and state that the plate would be given up, and that this course of paltry annoyance would be abandoned. The learned gentleman concluded by moving "That an humble address be presented to his majesty, that he will be graciously pleased to give directions, that there be laid before this House, copies of all official papers relating to the service of plate presented to her majesty, the queen by his late majesty, in 1808, and used by her

majesty till her departure from England in 1814."

The *Chancellor of the Exchequer* said, if he had received the same notice of the learned gentleman's intended motion as had been given to his noble friend, he would have sought for information on the subject, and would doubtless have been prepared to give an explanation. He was, however, ready to state all the information which he at present possessed. It was unquestionably true that a service of plate was presented by his late majesty to the princess of Wales for her use, which service was placed in the apartments occupied by her in Kensington-palace; but that plate, having been paid for out of the civil-list revenue, could not be considered as the queen's private property, but as the public property of the Crown. He had, he conceived, some reason to complain of the course adopted by the learned gentleman, who had evidently taken the House by surprise. He thought it was extremely unfair to take advantage of the absence of one hon. member, in order to call on another to enter into an explanation, and also to enter into an engagement with respect to a transaction which the latter was not aware would have been brought before the House. He should therefore suggest, that the motion should be merely considered as a notice for Monday.

Dr. *Lushington* said, that as the right hon. gentleman had stated that on Monday an opportunity for explanation would offer itself, he acceded to his proposition, and on that day would repeat the motion which he had just made, and which he now begged leave to withdraw.

The motion was then withdrawn.

Petition of Mr. Mills—Borough Influence.] Mr. *Bright* presented a petition from an individual who signed himself "James Mills, a British Freeholder." The petition was brought up and read. It commenced by complaining of the burdens imposed on the people, and of the enormous expenditure of the late reign, amounting to 2,300,000,000*l.*, being three times the amount of all the expenses incurred during the reigns of thirty-one preceeding monarchs, occupying the long period of seven hundred years. The petitioner contended, that the evils under which the country laboured arose from the present mode of returning members to the House of Commons, by which the people were excluded from the right of election, and a great majority of the House were returned by the influence of a number of peers, whose interference at elections was a breach of the privileges and of the standing orders of the House. The petition then proceeded to name the peers possessing borough influence and patronage, and to enumerate the members returned to parliament by that influence, to the amount of more than 200, amongst whom were lord Castlereagh, Mr. Tierney, Mr. Brougham, sir J. Mackintosh, and most of the eminent members of the House.* The acts of a House thus constructed he protested against, as not legally binding. The petitioner concluded by offering to prove at the bar that this influence existed, and calling on the House to expel such members, and to impeach the peers who had thus interfered with their privileges.

Mr. *Hobhouse* rose to second the motion that the petition should be brought up. At the present moment the statements contained in it should, he thought, be especially noticed, when there was lying on their table a list of those members who were supposed to be returned by corrupt influence to that House. This was the more necessary, because the House of Lords were now about to give judgment on one of the most important measures that was ever submitted to the legislature —he meant the bill of Pains and Penalties. The House ought to take care, if that bill were brought down to them from the Lords, that it was not again submitted, in effect, though not in reality, to the same individuals, in the persons of those whom they had caused to be returned, by whom it had already been decided in the other House. If, as was stated in a petition which he had recently presented, 198 members were, in one way or other, returned by the influence of the House of Lords, what would the country think, should the bill of Pains and Penalties pass their lordships' House, when it was submitted to those whose elections were secured by such influence? People would be of opinion that the measure merely went through the same hands a second time.

Mr. *Robinson* entertained great doubts as to the propriety of receiving such a petition. No person was less willing than himself to interfere with the right of petitioning, but there were statements in the paper, the truth of which he could not ad-

mit, and which were evidently insulting to the House. It was asserted, that a very large proportion of the House of Commons were not legally elected—and the names of the persons supposed to be illegally returned were mentioned. Now, many of those individuals had been declared duly elected by committees of the House. The petition went on to state, that the legislative acts of a House thus elected; were not binding on the people. This was evidently a denial of the rights and privileges of the House; and whatever speculative opinions gentlemen might have as to the mode in which members should be elected, he did not think they would sanction such an attack.

Mr. *W. Dundas* felt it necessary to declare, as his name was mentioned amongst those who were said to be unduly elected, that he was returned to sit in that House in the most fair and uncorrupt manner.

Mr. Serjeant *Onslow*, whose name was also mentioned, said, he owed it to the borough for which he was elected to declare that the town of Guildford was not a proprietary borough, in which the election was carried by the influence of any peer or peers. An assertion to the contrary was false and unfounded. He and his colleague were requested to come forward by a large body of the respectable electors. He repeated that the borough of Guildford was not governed by the influence of peers.

Mr. *Bright* said, he was totally ignorant and uninformed of the facts contained in the petition. He knew nothing of either of the boroughs alluded to by the members opposite, and, in presenting the petition, he thought the only thing he was bound to show was, that it was of such a nature as ought to be received by the House. The petitioner complained of an illegal practice, that of peers returning members to sit in the House of Commons. It was not necessary for him to state this as a positive and ascertained fact. It was enough for him to assert that there was a *primâ facie* case of that nature, which he was prepared to prove, and therefore the petition ought to lie on the table. An objection was taken, that the petition contained a list of members illegally returned, when the contrary had, in several instances, been decided by election committees. The petitioner did not complain of this as being contrary to the common law, but as being opposed to the law of parliament. The common law did not say that peers should not return members to that House, but their standing orders provided that peers should not interfere in elections. Considering the law of parliament as part of the law of the land, he must contend, that any individual returned to that House by the influence of a peer, sat there illegally. He knew not whether there were any persons who did so sit in parliament; but he would say, supposing such to be the case, that the phrase "illegally elected" was properly applied in the petition to individuals introduced by the influence of peers. It was said, that the petition designated the proceedings of parliament as illegal and unjust, and asserted that they, ought not, therefore, to be binding on the people. It did no such thing. The petitioner merely entered his solemn protest against any measure for raising taxes, or for interfering with the property of the people, which might be agreed to in a House constituted as he had described. He denied that members so returned had a right to impose burdens on the state, but he did not call on the people to resist them. He complained to the House, and protested against the proceedings which it adopted; but he did not say that he would himself resist them, or call on any other persons to offer resistance. Nothing then, it appeared, was necessary towards allowing the petition to lie on the table, but that the list of members should not be comprised in it. On what grounds should it not? It was only a list of individual facts (if he might use the expression), in different parts of the country, which the petitioner asked the House to examine. It was, in fact, a mere index, arranging and pointing out the various places where the illegal acts complained of were said to be carried on. He did not know how far it might be an imputation on individuals, but imputation he conceived had nothing to do with the question. This petition contained a grave complaint that practices contrary to the law of parliament were carried on in various parts of the country; and the House ought not to reject it because it contained charges against a number of individuals.

Mr. *Lushington* put it to the Speaker, as a point of order, whether, under the existing regulations of the House, the petition could be received? The petition stated that a number of members were not legally returned. Was it not, then, an election petition? And, if so,

must it not be rejected, as the standing order provided that all objections to improper returns must be made within fourteen days after the election had taken place? This was not a complaint relative to one individual—nearly 200 were included in the list.

Mr. *Hobhouse* said, he had very recently presented a petition of a similar description, which was laid on the table. It did not indeed contain the names of the individuals who were unduly elected, but it recited the names of the peers who exerted their influence to send members to that House, and the places where that influence was made use of. Therefore it was, in some degree, opposed to the order to which the secretary for the Treasury had referred, but that circumstance did not operate against its being received. With respect to the list contained in this petition, he knew nothing about it. But what had been said ought not, he conceived, to prevent it from being laid on the table. Statements contained in other petitions, on different subjects, were occasionally untrue, but that did not cause their rejection. The interference of peers ought to be guarded against; this, he believed, was provided for by the statute of Westminster. If it were not to be discouraged, what was the meaning of the declaration in the Bill of Rights that "elections should be free?" Was it that they should not be free? that elections were to be influenced by peers, whose power, arising from their great property, was notorious? How would it appear to the country, at the present juncture, if this petition were refused? Even the present parliament might wish to stand well with the country, and the rejecting such a petition was not the best mode of effecting that object. The petitioner did not recommend resistance. He merely said, the necessary inference was, that their acts could not be considered fair and constitutional laws, as the members who passed them were not duly elected. If he had stated an intention to resist, he might be punished for it. The House ought, even in its magnanimity, to suffer the petition to lie on the table. If there were any insult in it, that was another thing; but, for his own part, he could not perceive any.

Mr. *Lockhart* doubted very much whether this was not an election petition. It stated that a number of members were unduly elected, and it called on the House to expel them. Now, he knew of no way by which they could be expelled except through the medium of an election committee. He recollected a precedent in point. He alluded to a petition presented by certain electors of the city of Oxford, in which they complained of the interference of the duke of Marlborough in the election for that place. This was held to be an election petition. The parties, however, not having entered into recognizances, the matter dropped. A second petition, of the like nature, was presented; but, as 14 days had elapsed since the election, it could not be received. He inferred from this, that when a peer interfered in an election, such interference would render that election void, because otherwise it would not be cognizable by an election committee. If this were the case, the objection must form the ground of an election petition, and must be regulated and governed by the rules which applied generally to that sort of petition.

The *Speaker* wished to state the circumstances relative to the petition which had just been referred to by an hon. member (Mr. Hobhouse). He was the more anxious to do this, because he was personally concerned in the transaction. The petition, on being presented, was brought up to the table, read short, and ordered to be printed. He was subsequently applied to, by one of the officers of the House, to know whether a list of peers, who were said to nominate members to that House, and which was affixed to the petition, should also be printed? He answered, that no motion having been made relative to that list, it was in the breast of the House to give or refuse an order for printing it, on application being made to them; and therefore he could give no opinion whether it should be printed or not. The petition was printed but the list was left out, and in that state it at present stood. It would be found that the petition was not all that was contained in the parchment laid on their table. There was also a list of peers who were said to interfere in the return of members of parliament, which, not having been read to the House, and, in fact, not being in possession of the House, he could not exercise any discretion, one way or the other, with respect to its being printed.

Mr. *Hobhouse* said, on looking to the petition, as printed, he found that the list

was not annexed. He inquired the reason; and having been told that the Speaker did not conceive that it could be printed without a specific order from the House, he bowed to his authority.

The petition was rejected.

HOUSE OF LORDS.

Monday, July 17.

IONIAN ISLANDS.] The Earl of *Lauderdale* rose to move for the production of certain papers relative to some recent transactions in Parga, and the general administration of affairs in the Ionian islands by Sir T. Maitland. Although there was no reason to believe his motion would be opposed, the House would permit him to enter a little into the subject, with a view of showing the justice and propriety by which general Maitland's conduct had been marked. It would not indeed be difficult to show that he had rendered a service, and an essential service, to his country. It might be curious to trace the misrepresentations which had been circulated with reference to his government to their origin. At first those misrepresentations related only to the provisions of the treaties concerning Parga. The censure did not extend to the present high commissioner; but pamphlets had been since published, some with and some without names; and a review also had appeared, which, affecting to blame those pamphlets, gave additional force to the calumnies they contained. For the character of the officer in question he might well be supposed to feel great esteem, and no small regard for his person; and therefore he trusted their lordships would excuse his taking this opportunity of vindicating that character from unjust aspersions. The statements which he alluded to branched into a variety of accusations; the first of which was, that he had neglected his duty in making an improvident bargain for the people of Parga; secondly, that he had expended large sums of money; thirdly, that he had adopted a system of impolitic and oppressive taxation, by which an insurrection had been produced; and, lastly, that he had assumed an exorbitant power, which he exercised oppressively. Now, with regard to the provision in the treaty of Paris, as it respected Parga, he wished those who formed such decided opinions on the subject had adverted to it with a little more care. The island of Parga was occupied as a military station, on one condition only, of attending to the benefit of the people. We came to no agreement with the Parguinotes, and came under no obligation to them. This was the statement of general Campbell; no one indeed, who knew how Parga was placed at the conclusion of the treaty of Paris would deny that fact. It was then stipulated, that Parga should be restored to the Porte; and indeed the expediency of keeping it in our own hands was only to be maintained by a total misrepresentation and mis-description of that island. It was without any port, and its means of subsistence were all derived from the coast of Albania. It could not have been defended against a strong force without new fortifications, and at least a regiment of men. The subjection of vessels coming to it to a quarantine of 40 days would have rendered its foreign intercourse most inconvenient. Now, what was sir T. Maitland's conduct? He was either to make a convention with Turkey for securing the privileges of the Parguinotes before he gave up the island, or obtain a guarantee for their future security. In effect, the strongest stipulations were made for their protection and good government; and arrangements made by which those who chose it might retire. But then, it was complained that an incorrect valuation had been made, and that the Parguinotes had not been justly dealt with. It was not, however, usual to let individuals set a final valuation on their own property. Three commissioners had been appointed, who were conceived to be well qualified for the task, and they had named the sum of 280,000*l.*, whilst the agent for the Turks estimated the value at 56,000*l.* only. After a deduction of 33 per cent, which was the established regulation in the West Indies, sir T. Maitland secured to the Parguinotes payment of the sum of 150,000*l.* He himself had the most accurate information that the Parguinotes were entirely satisfied with the arrangement when first made. As there was not a sufficient quantity of Spanish dollars, a part was paid in gold, and there was no truth in the story of base money having been introduced. Many cases occurred of claims amongst the Parguinotes, and of debts and mortgages, 700 of which cases had been decided in three weeks. He would not read the authentic documents which he had in his possession with reference to these circumstances, but they

contained a body of irresistible evidence. The papers already produced clearly proved that sir T. Maitland was not drawing on the British treasury, but that he was carrying on all the purposes of his commission from the military funds. By the treaty of Paris we were pledged only to maintain the troops stationed in the Ionian islands; but, from an improvement of the revenues, sir T. Maitland had been able to pay the whole Mediterranean staff. That officer looked forward to a yet greater augmentation of the revenue, and he did not wish to see the convention settled till the amount of its produce could be ascertained. It had been urged, that the new system of taxation was extremely onerous—that it impoverished the rich and oppressed the poor. The fact was, that since the constitution of the Ionian states, sir. T. Maitland had imposed but one new tax—that upon olive oil, which had, he believed, the effect of increasing the produce on every proprietor's estate. Again it was said, that this was done without consulting the whole senate, and under the sanction of a committee only. Now no person had ever manifested a greater respect for the forms of the constitution, or a stronger disposition to maintain them. With regard to the charge of having established a monopoly of the corn trade, he had in the first instance put an end to a monopoly that before existed; but commercial intercourse was not there quite so free as it was in some other places, and Parga was actually threatened with famine by means of a combination of merchants in Corfu. It was for this reason that corn was ordered to be purchased at the public expense, and this system was to continue till the same danger should have ceased. The effect merely was to raise the price a little higher than it formerly had been. He now came to another charge—that of imposing local taxes; and the whole of this resolved itself into an impost for the purpose of finishing a canal in Cephalonia, which was approved by every landed proprietor and merchant in that island. Every attempt had been made, however, both there and in the other states, to excite revolt, and to produce false impressions with regard to the objects of the British government. At Santa Maura these attempts had been actively and pertinaciously made, and he had received some information respecting them from the very best sources of intelligence. One of these—the eldest son of a principal inhabitant, who had represented Santa Maura in the assembly of the Ionian islands—described the insurrection to have been caused by a person who had long been employed in endeavours to interrupt the tranquillity established by the British government; that it did not last above one day, and was raised chiefly by a false alarm that many of the inhabitants were to be conveyed to the West Indies. It was in fact brought about by much the same means as those used in fomenting disturbances nearer home. sir T. Maitland had throughout shown a respect for the constitution and for the privileges of the inhabitants, which had not been shown by the Russian government. The civil government of the Ionian islands, including even Malta, formed no longer any charge on this country, and we were also on the point of obtaining a reduction in our military expenditure. Their lordships were aware that he was too nearly related to the officer whose conduct he was vindicating to deal in panegyric. Had he been more distantly connected, he might have been more able to do justice to his merits. He felt, on this occasion, that he had certainly said nothing more than was strictly due, and that there was not the slightest foundation for any of those calumnies which had been so unceasingly and so extensively circulated. His lordship concluded by moving for copies of certain correspondence that had passed between the British government and commissioners of the Ionian states.

Earl *Bathurst* remarked, that the whole administration of sir T. Maitland was deserving of the highest credit: a most important and delicate trust had been committed to him—a trust of a peculiar nature, and in the discharge of which he could derive no benefit from past experience. This, however, he had executed with the utmost temper, ability, and moderation. There was no governor in the various colonies and dependencies of Great Britain who had acted in a more upright, honourable, assiduous, and prudent manner. He now wished to offer a few words as to the conduct of his majesty's government, which had likewise been much misrepresented. Whenever the subject should be fairly examined, it would appear that the British government had never exercised its protection more liberally or more scrupulously. The whole error of those who censured our proceedings in that quarter, arose from an idea that we had any option to exercise.

But the truth was, that we had originally no right to retain possession of Parga, that we were under no obligation to retain it, and that we never engaged, on occupying it, to keep it under our protection. In the treaty of 1815, the Ionian dependencies were described, and Parga was expressly excluded from the stipulations made respecting them. He knew that it had been confidently reported some time ago, that one of sir J. Campbell's officers had entered into some engagement with the Parguinotes with regard to their becoming a dependency on this country; but as he knew that no such instructions had ever been sent to sir J. Campbell, he had requested an interview with that officer, who was too ill to meet him, but who had sent what might be looked upon as a death-bed declaration, in which he stated that he had never authorized any officer to give the Parguinotes reason to believe that they would be taken under our protection. It was a mere occupation on our part, and stood on the same ground as our occupation of Egypt in a former war. Egypt also belonged to the Porte, and when we drove the French out of it, it was because their possession was contrary to our belligerent interests, and showed that the Porte was itself either unwilling or unable to exclude them. But when peace arrived, Egypt was restored, and the case of Parga was quite analogous. As to what might be supposed due to the people of Parga, on its cession, he must say that it would have been quite unusual to grant them three or four years for the sale of their property; but of what use would the delay, if granted, have been to Parga; for who would have purchased property of that description? By the arrangement actually made, Ali Pacha had been induced to purchase it, and at a better rate than could have been secured by any other stipulation. The only additional ground on which the cession had been blamed was, that Parga had surrendered to us, and that we ought therefore to have retained possession of it. Those, however, who knew the situation of the place, well knew what must be the difficulty of defending it.

The motion was agreed to.

MARRIAGE ACT AMENDMENT BILL.] Lord *Ellenborough* moved the order of the day for going into a committee on this bill, and stated that he had several amendments to propose in the committee, the printing of which he intended to move for, with a view to their discussion on the re-commitment of the bill. He thought the clauses might be so worded as to remove the objections made against them as they now stood, and he hoped that every noble lord who took an interest in the measure would attend the committee.

The *Lord Chancellor* said, that from the respect which he entertained for his noble friend, he could easily conceive that the bill might, after it had gone through a committee, prove much less injurious to the morals and religion of the country than it now appeared to him calculated to be in all its clauses. He must at the same time say not-content to the motion for going into a committee.

Lord *Redesdale* observed, that if the bill was to have a retrospective operation, nothing should induce him to vote for it. It would go to overturn numberless settlements, to revive suits which had been decided, to set aside wills and revoke administrations. As the bill now stood, its retrospective effect would extend over a period of seventy years, and marriages solemnized during that period might by possibility be made null and void.

The Earl of *Liverpool* agreed with what had fallen from the noble lord, but at the same time thought that the Marriage act required alteration. To him it appeared that the simplest law was the best, and he should rather be for granting more facility than for interposing any obstruction in contracting marriage. Every new regulation, however, should be prospective only; and although there might be past cases in which hardships must be sustained, it could not be said that there was any injustice in leaving parties to the provisions of the old law.

Lord *Holland* also thought that the law required alteration, and that the proper course was to go into the committee. Those who held that the bill should be retrospective would likewise have the opportunity of submitting a proposition with that view. His own conviction was, that as the law now stood, it was as bad as it could be.

The *Lord Chancellor* said, that one of the most objectionable clauses he had ever seen in any bill was that which provided, that because the bans had been irregular, it should be left to the judge to decide whether it was a *bona fide* marriage

Such a provision would inevitably lead to a degree of profligacy of which it was difficult to form an estimate. He doubted much whether any judge could be safely invested with this discretion; and if all cases of marriage by licence were to fall within the same clause, it would be much better to abolish marriage by licence altogether.

The Earl of *Westmorland* thought, that if the act had not a retrospective operation, no good would follow from it.

The House then went into the committee, and several new clauses were proposed by lord Ellenborough.

CRIMINAL LAW.] The Marquis of *Lansdown*, on moving the order of the day for the third reading of the Privately Stealing bill, said, that there were three bills before the House in the same stage, for the amendment of the criminal laws of the country He had selected the one just read by the clerk as the first for their lordships' consideration, as he was apprehensive that it would meet the most serious opposition. With that apprehension on his mind, he should state the grounds by which he felt that the bill was recommended to their support. It was but justice to their lordships to say, that he was persuaded there was not a member of the House who would wish to continue in their full severity any part of the penal laws which were not attended with beneficial effects. They were now to consider the propriety of repealing a bill which had remained for a considerable time a dead letter on the Statute Book; and which, instead of assisting, prejudiced the course of justice, by deterring prosecutors from taking that part which they ought in order to bring criminals to account. He knew of no test by which they could judge of the efficacy of penal laws, except the experiment, whether, on the whole, they had contributed to repress crime, and whether they had met with the concurrent feeling of the community? Looking, therefore, at the present measure in this view, he was confident when he asserted that the law ought to be repealed—that, owing to its severity, it had been hardly executed during the last 60 or 70 years, nay, even as far back as it was possible to collect facts with any certainty—that its severity had so far armed judges, prosecutors, and juries against it, as to render it almost impossible to obtain a conviction under it. In the greater number of cases, the prosecutors preferred acquiescing in the loss of their property, rather than expose their consciences to the feeling of having visited on their fellow-creatures a disproportionate, cruel, and unjust punishment. He found by the returns, that from 1805 to 1818, 352 convictions had taken place, and only one execution. In London and Middlesex there had been but one execution during a whole century. In the Northern circuit, there were 46 convictions and no execution. In the Western circuit, for the last 50 years, there were 55 convictions and no executions; and in Lancashire, from 1779 to 1818, there were but 9 convictions and no execution. In addition to this, there was the evidence taken before a committee of the other House, in which the merchants, and principal shopkeepers of London agreed, speaking, without hesitation, not merely for themselves, but for all those with whom they had communication in clubs or otherwise, that the shop-keepers, whose property the act was intended to protect, disclaimed such protection, and were anxious to be released from its burthen. Shop-keepers of the highest respectability, had stated cases in which they had submitted to considerable loss, being deterred from prosecution by the belief that the punishment was infinitely beyond what humanity and expediency required. Would the House reject such evidence? Would they pay no attention to the recommendation of a committee which had acted for a considerable time, and which had reported unanimously that the act ought to be repealed? Would they pay no attention to the other House, which had passed the present bill unanimously, and take upon themselves the responsibility of saying, in opposition to the sense of the whole country, who were most interested in the question, that a bill which was founded in humanity and justice, was not entitled to their lordships' favour and support?

The *Lord Chancellor* said, that the noble marquis had misunderstood him, if he supposed that it was his intention to oppose that bill in particular. At the same time he considered it a matter of regret, that those bills were not brought forward when the House might have the advantage of the presence of the twelve judges, especially as they were said to have interposed mercy in so many cases against the verdicts of juries. In the former instances in which these bills were discussed, they

had the benefit of the experience and knowledge which distinguished that great man who had lately held the office of chief judge in the court of King's-Bench. Induced by his authority they had again and again rejected these bills. The present bill might possibly admit of amendment in the point to which he should now object; but while it appeared a harsh thing to condemn a man to death for stealing privately in a shop to the amount of five shillings, the present bill did not provide sufficiently against the loss of property to an amount which, though it could not distress some, might effectually ruin many shop-keepers. The act was not intended merely for the protection of men of large property, but also of men of small property, who could not so well protect themselves. It might, therefore, become an argument for their lordships' consideration, whether they would expose the whole fruits of an industrious life to the operation of such a measure as the present. It had been his painful duty to receive the recorder's report during the period of 18 years, and he could not say from that experience that there appeared to be much reluctance on the part of prosecutors to institute proceedings. He could say, indeed, that he was rather surprised, that so little regret was manifested by prosecutors in general, at proceeding on those capital charges. But if there was an apprehension in prosecutors, there would be as probably an apprehension in offenders, in subjecting themselves to the possibility of a capital punishment. He now spoke the sentiments of that great judge to whom he had before referred, that the apprehension of the capital punishment had deterred many from the commission of this offence. If, however, their lordships were disposed to make a merciful experiment, he should make no very strenuous objection. But if hereafter it should be found, that shop-lifting became universal, and that many persons were reduced to misery by this crime, he hoped it would be remembered that he had suggested the consideration, whether this law which had so long existed was not wise and politic. Having said "not-content" to the bill, he should feel no great anxiety as to the result. On the third reading he should propose an amendment, to provide that persons stealing to the value of more than 10*l.* should still be subject to the capital punishment.

The bill was read a third time, and after the amendment was agreed to, passed. On the motion for the third reading of the Capital Felonies Repeal bill,

Lord *Redesdale* objected to the repeal of the punishment of death in the case of persons committing certain offences, being disguised by night. He stated that in the part of the country where he resided, he was obliged, conjointly with some of his neighbours, to keep up a police of six men at the expense of 200*l.* a-year, to suppress deer-stealers on the borders of the forest. If the capital punishment, which now applied to persons going with their faces blackened and disguised, were repealed, the practice among these depredators would be universally resorted to.

The Marquis of *Lansdown* said, it would be remembered that deer-stealing would remain punishable for the first offence by fine, for the second offence by tranportation. Now the question was, whether the fact of persons blackening their faces was a circumstance of sufficient importance to warrant the punishment of death?

Lord *Redesdale* said, his supposition was, that in all cases these offenders would go with their faces blackened.

The Marquis of *Lansdown* said, that if it was known that courts would be in the habit of applying a higher punishment to deer-stealing when committed by persons thus disguised, as, for instance, that they would fine simple deer-stealers 10*l.*, and deer-stealers in disguise 500*l*; or, for the second offence, sentence to transportation for seven years in the one case, and for fourteen years in the other, the effect of a superior punishment on that aggravation of the offence would remain.

Lord *Redesdale* said, the noble marquis pre-supposed that the offenders were detected. Now he was of opinion, that the class of persons he had mentioned did not care much for transportation.

Lord *Holland* said, the noble baron seemed to have an extraordinary apprehension of these black-faced gentry, but it was to be hoped that his apprehensions as to their increase would be found groundless. When on a former occasion a bill was introduced into another House to take away the capital punishment which attached to persons calling themselves Egyptians, the member for Kent rose to protest against it in behalf of his county, which he foretold would be inundated with gipsies. The noble lords near him could now tell the House whether Kent

was so inundated with gipsies of late years as to become uninhabitable.

The *Lord Chancellor* said, he should wish the noble marquis to consent to the postponement of the third reading of this bill till to-morrow, as there were, in his mind, so many objections to it, that it could not be discussed without occupying much of their lordships' time.

This proposition having been assented to,

The *Lord Chancellor* said, he would, in the mean time, to save trouble, point out the objections which he had to some of the enactments. Among the offences from which the bill took away the punishment of death, were those to which capital punishment was affixed by the 9th Geo. 1, chap. 22, viz. the killing, maiming, or wounding of cattle, or the cutting down of trees in orchards or plantations. It did undoubtedly seem a hardship that so heavy a punishment as that of death should be affixed to the cutting down a single tree, or the killing or wounding a cow. But it was a necessary consequence of general descriptions, that all cases were included. It was impossible, by the means of language, to frame laws which should apply to all cases, without the exercise of the discretion of the judge. In the case of burglary, for instance—if a person passing Ludgate-hill broke a pane of glass and drew out a ribband, that was burglary. This would be thought too hard a case for the application of capital punishment, yet this offence was made punishable by death under the words of the same law, which was necessary to prevent the breaking into a house in the dead of night, finding the family, standing over them with pistols, and rifling the dwelling. It was impossible, of course, to administer such a law, without the interposition of mercy and discretion. Now, in the case before the House, if the bill passed in its present state, a person might root up or cut down whole acres of plantations, or destroy the whole of the stock of cattle of a farmer, without being subject to capital punishment. Persons would thus be let loose to do mischief far beyond the limits of many capital crimes. He could not, therefore, without hearing his objections removed, consent to this part of the bill. As to the clause which took away the punishment of death from bankruptcy offences, he had no objection to it. In the experience of forty years in the court of Chancery, he had only known two or three persons prosecuted for this capital offence, and he had no doubt there were cases in which, on account of the capital punishment, prosecutions had been prevented. As to the repeal of the 6th Geo 2nd, which affixed the punishment of death to persons breaking down the banks of rivers or sea-banks, when he looked to the state of property in Lincolnshire, where, by offences of this kind, mischief might be done, to which the robbery of a few pounds was not to be compared—when persons might be deprived of all their means of subsistence, he could not give his consent to it. As to the clause respecting the pulling down turnpike-houses, it did not appear to him material, as the pulling down turnpike-houses was a capital offence under another act. He came next to the clause respecting threatening letters, which took away the capital punishment unless the letter demanded money or a valuable consideration. On this he confessed he had great doubts. Nothing was more destructive to the peace of families, than the apprehensions which were kept alive by the malicious and secret threats of mischief. The clause which took away the punishment of death from persons destroying the floodgates or sluices on the great level of the fens, it would, in his opinion, be impossible for the House to take away, on account of the great extent of property thus protected. The last paragraph of the preamble referred to the act for punishing persons destroying certain manufactured goods with death. He could only say, that when he was in the habit of going the northern circuit, it was the general opinion that there was no possible security for the manufacturers in the North of England, but by the terror of that law.

The third reading of the bill was fixed for to-morrow.

HOUSE OF COMMONS.

Monday, July 17.

CATHOLIC CLAIMS.] Mr. *Plunkett* said, he held two petitions in his hand, relative to the claims of his Roman Catholic fellow subjects, which he did not mean at present to lay before the House. He would not expatiate on the subject to which those petitions related, but would rather apply himself to explain why he did not now intend to bring them forward. One of those petitions was from the Ro-

man Catholic inhabitants of certain parishes in Dublin. It was numerously and most respectably signed, and complained of the civil disabilities by which the Roman Catholics were affected. The other petition was generally signed on behalf of the whole Roman catholic population of Ireland. The signatures to it were extremely numerous; and he thought he did not state too much when he said that it spoke the general sentiments of the Roman Catholics of the sister country. He did not mean to make any motion on this subject in the present session. He had come to this determination, after giving the matter the best consideration in his power. He felt that, while the momentous question which was now before parliament and the public remained undisposed of, he should be wanting in the respect that was due to the throne, to the parliament, and to the country, if he were to distract their attention by introducing so important a question as the rights of the Roman Catholics of Ireland. The present crisis of the country was one, he conceived, of extreme embarrassment, big with great public calamity, and therefore requiring the undivided attention of every honest and conscientious man. Under such circumstances, he should ill discharge his duty, if he introduced any measure that could distract the attention of parliament from the great question to which he had alluded, or which could tend in any degree to disturb or agitate the public mind. He would not, therefore, bring forward, at present, the claims of the Roman Catholics. At the same time he must say, that the question connected with those petitions was one not only of such deep interest to the country, but of such pressing urgency, that it would not be proper to keep it back for any protracted period.

BARRACK AGREEMENT BILL.] The Chancellor of the Exchequer moved that the report of the above bill be now received.

Mr. *Calcraft* felt himself compelled to renew his opposition to this measure. The right hon. gentleman had told them, that, unless this bargain was completed, the Horse-Guards would be without barracks. This he denied; because they might still occupy the barracks which they previously had. The right hon. gentleman had thrown the blame of this proceeding on the contractor, who was said to have gone on with the work hastily. That, however, could not be; because the ground on which the barracks were building was the property of the Crown, and it was impossible that it could have been placed in the contractor's possession except by the officers of the Crown. The contractor denied that he proceeded on his own risk, and declared that he acted under the contract signed by government before parliament knew any thing of the matter. He had also to object, that this proceeding had not been conducted on the principle of competition. Competition, however, there was none. The present was a most improper time for the expenditure of the public money on any object that could be foregone. If barracks were really wanted, they could be procured for infinitely less than the sum now about to be laid out. He could see no necessity for the measure; and if the House threw the matter back to government, they would find that the plan would be reduced to something like a proper scale.

The *Chancellor of the Exchequer* defended the contract, as an eligible one for the public.

Mr. *Wilson* contended, that 5,400*l.* per annum, was too great a rent for the premises in question. The contract was made at the rate of 7 ½ per cent, which was most exorbitant.

Mr. *Leonard* was bound to oppose a measure which would, for many years, cost the country 5,400*l.* per annum for bare walls. He could not see any necessity for going to such an extraordinary expense for a regiment consisting only of 400 men and 300 horses.

The question being put, "That the report be now received," the House divided: Ayes, 92; Noes, 74.

List of the Minority.

Abercromby, hon. J.	Denison, Wm.
Allen, John H.	Duncannon, visc.
Anson, hon. G.	Dundas, C.
Aubrey, sir John	Ebrington, viscount
Barrett, S. M.	Evans, Wm.
Bernal, Ralph	Fergusson, sir R. C.
Bright, H.	Fitzgerald, lord W.
Buxton, Fowell	Fleming, John
Boughton, W. R.	Glenorchy, lord
Bennet, John	Graham, J. R. G.
Calthorpe, hon. F.	Haldimand, Wm.
Calvert, C.	Hamilton, lord A.
Campbell, hon. J.	Heathcote, G. J.
Clifford, Aug.	Hobhouse, J. C.
Concannon, lord	Hughes, W. L.
Davies, T. H.	Hume, Jos.

Hutchinson, C. H.
Langston, J. H.
Lemon, sir W.
Lushington, Dr.
Lennard, T. B.
Lockhart, J. J.
Martin, John
Maxwell, J.
Monck, J. B.
Moore, Peter
Mostyn, sir T.
Nugent, lord
Ord, Wm.
Ossulston, visc.
Parnell, sir H.
Pares, Tho
Peirse, Hen
Powlett, hon. W.
Price, Rt.
Prittie, hon. F. A.
Pryse, P.
Robarts, Abr.
Robarts, G.
Robinson, sir G.
Rowley, sir W.
Rumbold, C.
Russell, lord W.
Russell, R. G.
Smith, Robt.
Scudamore, R.
Sefton, earl of
Titchfield, marq.
Townshend, lord C.
Taylor, M. A.
Western, C. C.
Wells, J.
Whitbread, W. H.
Whitbread, Sam.
Williams, W.
Wood, M.
Wynn, sir W. W.
Wilson, sir R.

TELLERS.

Calcraft, J.
Wilson, T.

City Petition—The Queen.] Mr. Sheriff Rothwell appeared at the bar, and presented the petition relative to the proceedings against the queen, which had this day been agreed to by the lord-mayor, aldermen, and commoners of the city of London, in common-council assembled.

Mr. Alderman *Wood* said, the petition was agreed to by a very large majority of the common-council. Indeed, scarcely ten hands had been held up against it.

The petition was read. The petitioners stated; that they had learned, with great regret, that a bill of Pains and Penalties had been introduced in the House of Lords against her majesty, having for its object to degrade her from her rank, and to dissolve the marriage between her and his majesty. That the principle on which this measure was founded was never resorted to except in the worst of times; and the petitioners could not but express their sorrow that it was brought forward on evidence that would not be received in ordinary cases. The petitioners contemplated with great satisfaction the caution observed by this hon. House, in the course of a proceeding which tended to lower the dignity of the Crown, and to endanger the peace of the country. In conclusion, the petitioners prayed the House to reject the bill if it should come before them.

Motion respecting the Queen's Plate.]. Dr. *Lushington* said:—I rise, in pursuance of the notice which I gave to the House on Saturday, to move an address to his majesty, that he will be graciously pleased to give directions that there be laid before this House copies of all official papers relative to the service of plate presented, in 1808, by his late majesty to her majesty the queen, then princess of Wales. It is a matter of regret to me, that any intention should have been supposed to exist on my part to take the House by surprise in the motion which I then made. On the contrary, it was my most anxious desire to afford every opportunity for explanation to his majesty's ministers. I was aware that my hon. and learned freind, the solicitor-general of the queen, had made the earliest communication upon the subject to the noble lord, the secretary of state for foreign affairs, and in consequence of that communication I gave less notice than I should otherwise have done; but I utterly deny any wish or intention on my part to take the House by surprise, and I am perfectly convinced, that if either in fact or in intention any such circumstance had taken place, it would have received the heaviest displeasure of her majesty the queen. The reason that I was anxious on Saturday not to postpone the motion, notwithstanding the absence of the noble lord, was, that I was not aware the House would sit to-morrow, and that I was therefore apprehensive no other opportunity would occur of introducing the subject. —Having now, I trust, set myself right with the House upon this point, I shall shortly detail the circumstances upon which the motion with which it is my intention to conclude is founded. In the year 1808, his late majesty was graciously pleased to order, for the use of her majesty the queen, then princess of Wales, a service of plate. The service was made after her majesty's own taste, and was presented by the king himself to her majesty, for her use and enjoyment. The order came through the lord chamberlain; the service was paid for by the lord chamberlain; and till the year 1814 her majesty continued in possession of the plate, without question or control. At that period her majesty was residing in apartments in Kensington palace, and upon her quitting that residence for the continent, the plate was delivered over by her to Mr. Mash, of the lord Chamberlain's office, with an express understanding and an entire belief on her part, that it was the property of her majesty, and that if ever she returned to this country

it would be reclaimed for her use. Upon her return to this country, her majesty found herself without any one of those articles which could contribute to her use, comfort or enjoyment. She found herself in a state of destitution, which, I believe and hope, for the honour of the country, is utterly unprecedented in the case of any queen of England.—Under these circumstances, her majesty being not only without a residence, but being literally without any one article for her daily use, was pleased to direct that an application should be made to Mr. Mash for the service of plate. Mr. Mash replied, that he did not conceive himself authorized to deliver the plate to her majesty without the authority of the lord chamberlain. Upon application being made to the lord chamberlain, that noble lord replied to her majesty's lady in waiting in the following terms:—"The lord chamberlain availed himself of the earliest occasion to bring the subject of the note with which he was honoured by lady Anne Hamilton before the king; and it having been ascertained by official documents, that the plate in question is Crown property, his majesty was not pleased to issue any orders for removing it from the jewel office where it is deposited." Such being the answer of the lord chamberlain, I trust I shall not be considered guilty of any indecorum, or of any breach of that most valuable order of this House, which prohibits members from adverting in any manner to the name of the king, if I treat the letter of the lord chamberlain as having received the sanction and authority of his majesty's ministers. I shall treat it as having issued from the noble lord himself, and I do believe and trust the noble lord will consent to that view of the question, and not be induced, as some others have been, to shake responsibility from his own shoulders upon persons who are wholly irresponsible. At the same time, I must certainly say, that if I were to confess my own honest sentiments, I am persuaded the liberal and gentlemanly disposition of the noble lord would never have dictated such advice as appears to have been given from the contents of this letter, but that it must have emanated from some person anxious to raise himself by the depression of her majesty, and base enough to stoop to the disgusting task of irritating the royal mind to acts which can only tend to the degradation of the Crown, and to the injury of the best interests of the country.—With respect to the course which has been pursued upon the present occasion, it appears to me that there are only two possible grounds or rather surmises, for they do not deserve the name of grounds, upon which his majesty's advisers can have proceeded. The first is that the plate was *bonâ fide* the property of the Crown; that it was purchased by the lord chamberlain for the Crown; that it was never for a moment divested out of the Crown; that it was strictly a loan to her majesty; and therefore, that though her majesty enjoyed the [illegible] of it, that permission was an indulge[illegible] the part of the Crown, and might b[illegible] an end to whenever the Crown pleased. In the first place, admitting that this plate was *bonâ fide* the property of the Crown, I shall require something more than bare assertion, to believe, that when the plate was delivered to her majesty, it was intended that she should only have a qualified use and enjoyment of it. Such a supposition is contrary to all past experience; for when plate has been ordered by the lord chamberlain, paid for by the lord chamberlain, and delivered to princes of foreign states, and ambassadors, is there any instance in which such a construction has been set up, or in which a demand of restitution has been made? But if the present was supposed to be accompanied with any condition, it is a little extraordinary that the Crown should have thought proper to order that the plate should be manufactured according to the taste and fancy of her majesty. In my humble opinion it is not very respectful to the memory of his late majesty, to suppose that he should have annexed any conditions to an act of bounty to her majesty, to whom upon all occasions he had evinced his most gracious favour and protection. But admitting that there was an understanding that if her majesty went abroad she should forfeit for a time the use of this plate, I will put it to the House whether, in common decency and common sense, it ought to be refused to her upon her return? Is it consistent with either justice or feeling, that because her majesty is accused she should be treated as if she were condemned; and that before any investigation has taken place, she should be thrown into a situation of degradation and disgrace? Is it just or manly to condemn her majesty to a situation, in which she is not only prevented from enjoying her high rights and

privileges as a sovereign, but even from possessing those ordinary comforts to which an English lady is entitled? God have mercy upon the heart of that man who was capable of suggesting to his majesty such advice, who could so far forget what was due to himself and his sovereign as to recommend measures tending to involve the Crown in disgrace, and excite indignation from one end of the country to the other. The people of England feel this—if the queen has been guilty of any misconduct, the time will soon arrive when he[illegible] is to be decided; let her be tried [illegible] honestly, and according to due co[illegible] of law; but God forbid that she should be vexed with these mean and petty insults. There is one other view of this subject which I hardly dare to anticipate in my own mind, and to which I shall merely advert to as a case which is barely possible; I mean, that when the plate was presented to her majesty, she was a *femme couverte*, and consequently not legally capable of holding property for herself. I cannot believe that this will be stated in argument on the other side, because I cannot suppose it possible that his majesty, who has been so long separated from the queen, could ever be persuaded to avail himself of such a plea. I pray this House to consider whether I am not founded in calling upon it to render its aid and assistance to her majesty under these circumstances. If the decision of this subject were left to the judgment and feeling of the noble lord, unbiassed by any other consideration, such are the sentiments which I entertain of the noble lord's liberality, that I am confident he would be the first man in this House to repudiate a course which can have no other effect than to insult and to irritate. Had the right hon. colleague of the noble lord been present (and I did hope that the right hon. gentleman would not have left the House before this question was brought under discussion) I might have appealed to him, with the certainty of obtaining the powerful aid and assistance of one, who has expressed his regard and affection for her majesty. I think the House will not expect me to press this subject farther, or to enter into the minute details of her majesty's household arrangements. I shall only add, that at the present moment there is not a single article in her majesty's possession which is not hired, and which is not utterly unadapted to her rank and station. I hope the House will feel this, and give me credit for stating the truth without entering into further particulars. Feeling, as I do, that the domestic concerns of any branch of the royal family can never be pryed into with a nice and scrutinizing eye, without infinite injury and detriment to the best interests of the country, I trust the noble will spare me the necessity of persevering in this course, not by coming forward with reasons of state, but by admitting that the circumstances of this case have been misapprehended, and by giving an assurance that an order will be immediately issued for the restitution of her majesty's property. Sure I am that if this course be adopted by the noble lord, it will be congenial to the feelings of a great majority of this House, and most satisfactory to the people of this country. I shall conclude by moving, "That an humble address be presented to his majesty, praying that he will be graciously pleased to give directions, that there be laid before this House, copies of all Official Papers relating to a Service of Plate presented to her majesty the queen by his late majesty, in 1808, and used by her majesty till her departure from England in 1814."

Lord *Castlereagh* regretted very much that he should have been absent on Saturday when the hon. and learned gentleman first made this motion; but still more did he lament both the mode in which it had been brought forward, and the course which the hon. and learned gentleman had thought fit to adopt in his absence. He certainly had received a letter from the queen's solicitor-general, communicating the intention to bring this motion on; but he would leave it to the judgment of the House to decide whether it was customary to submit a motion to parliament on a subject so immediately connected with the interior economy of the royal family, without having previously exhausted every other reasonable means of attaining the object in view, and whether such a course was likely to produce the desired effect. He would not impute any improper motives to the hon. and learned gentleman. The hon. and learned gentleman had been pleased to give him credit for entertaining proper feelings and sentiments on the subject, and he was disposed to render to the hon. and learned gentleman the same justice; but, with every disposition to view the hon. and learned gentleman's conduct fairly and liberally,

he was unable to reduce it to the standard of fair parliamentary dealing, and he was sure that in the hon. and learned gentleman's place he should have acted a different part. Would it not have been more consistent with a fair parliamentary course of proceeding, if the hon. and learned gentleman had abstained from making an actual motion at a time when there was no individual minister of the Crown present who could give any information on the subject? The hon. and learned gentleman was no doubt placed in a peculiar situation, in which he must be supposed to act under the directions of others, although he (lord Castlereagh) did not know of whom. Though he was bound to believe that the hon. and learned gentleman had been influenced solely by a sense of duty, yet when he considered the course which had been taken by the hon. and learned gentleman on Saturday, and heard the acrimony of remark in which the hon. and learned gentleman had just indulged, he must say that the hon. and learned gentleman could not have acted otherwise if his object had been to aggravate the feelings of the people, and to stimulate the worst part of the populace to expressions of discontent, and to repeat those acts of outrage of which he had himself been an eye-witness, and in the course of which even the palace of the sovereign had been insulted. If the hon. and learned gentleman had even used the diligence which became him as an advocate, he could not have come down and made a speech so remarkable for gross ignorance of the subject, and so pregnant with remarks calculated to act as firebrands out of that House. He thought, therefore, it was not too much to say, that when he himself was not in the House, the hon. and learned gentleman should have ascertained of his right hon. friend whether he could give him any information on the subject before he made his motion; and that he should not have made any observations calculated to do so much mischief, or put any questions on the subject of these papers, till a minister of the Crown was present who could answer them. The very fact of his (lord Castlereagh's) absence (and he charged himself of course with the responsibility of not being in the House to do his duty) ought to have restrained the hon. and learned gentleman. Standing in the situation in which he did, he was bound to express his feelings on the occasion; and in doing so, he hoped he had not expressed himself more strongly than the nature of the case required. He came now to consider the circumstance on account of which the House were to have their feelings tortured, and the public mind was to be excited, by statements apparently made for the purpose of carrying forward that system of inflaming the passions of the people, which seemed to be so steadily acted upon. He should state to the House what he knew of this transaction; and in doing so he could assure the hon. and learned gentleman that he was not actuated by any desire to avoid the responsibility which he might be thought to have incurred. About three weeks ago (and it was not an unimportant feature of the case that it was of three weeks' standing, notwithstanding the pressing haste which prevented the learned gentleman from waiting two days), before the question took an official shape, a communication was received by his noble friend at the head of his majesty's government, from the lord chamberlain, stating that her majesty had applied for the restoration of this plate. His noble friend said, in answer, that it was not intended to refuse the queen either a proper residence, or furniture becoming her station; and that when a place of residence was fixed on, the question of plate and furniture would be considered at the same time. He was sure the sense of the House and of the country would bear him out when he declared, that if, on the queen's arrival in this country, she had conducted herself with that feeling which became her sex, and that dignity which became her station, there was no person who would not have wished her majesty to receive every thing that could conduce to her comfort and convenience under her present situation. But when her majesty condescended to listen to the meanest advisers—when she suffered herself to become an instrument in the hands of the basest populace of the country, who presumed to insult the palace of her sovereign and her husband, as he (lord Castlereagh) had the misfortune of personally witnessing, he had no hesitation to declare, in defiance of every taunt that the hon. and learned gentleman might throw out in that House or elsewhere, that he should show himself to be insensible to the dignity of his station as a minister of the Crown, if he were to compromise its

honour by advising his sovereign to become the dupe of such arts. If her majesty's present residence in town was not a suitable one, he was persuaded that no difficulty would be thrown in the way of making an arrangement by which her majesty might find herself—not indeed in a royal palace—but in such a residence as her present circumstances might lead her to desire. But when the question was taken up in this manner,—when the hon. and learned gentleman came down to the House to make a garbled statement—which he believed the hon. and learned gentleman would not have made had he not been misled—he felt it to be his duty, and he thought the House would think it was its duty, not to enter into every quarrel which might be raised by a discontented member of the royal family; for, if the House were disposed to entertain these questions, they would soon have an ample harvest of such discussions. The hon. and learned gentleman had described this plate as a present to the queen from his late majesty; and a great attempt had now been made, as on other occasions, to embark the character of the late venerable monarch in the question at issue, and to make him an authority for bearing down the proceedings now pending before parliament. The House, he trusted, would guard against this attempt. If assertions were made on the one side, it might be necessary to meet them with assertions on the other; and he would leave the House to judge of the situation in which they would be placed, if called upon to investigate the disputes of the royal family with nothing to guide them but assertions. With respect to the plate in question (which had long been a topic of treasury correspondence), it was so far from being the property of her majesty, as stated by the hon. and learned gentleman, that it was no more the intention of his late majesty to give that plate to the princess of Wales, than it was to give her Kensington palace. His majesty never alienated the Crown possession of this plate, nor could he, of his own personal authority, legally do it. The facts were simply these: his late majesty consented to appropriate a part of Kensington palace for the residence of the present queen, then princess of Wales, and gave the usual orders to have it fitted with every thing suitable for her reception. By this order property to the amount of about 25,000*l.* was appropriated for the use of the royal personage at Kensington palace. In this property the plate was included, and so little was it a fact that it was made up by order of the king, and after the taste and fashion of her majesty, that a part of it was the plate of king William's, which was sought for out of the royal plate, for the purpose of being appropriated to the princess of Wales's use while she resided in Kensington palace. The very entry at the time in the lord chamberlain's books, from whose department, and not from the privy purse, the plate and other articles were furnished, was conclusive upon the manner in which the plate was sent to the royal personage; for the title of the inventory of the plate was gravely and learnedly entered in the books in this manner: "List of his majesty's plate in loan to her royal highness the princess of Wales, in Kensington palace."—[Dr. Lushington: "What is the date?"] He belived the date was in 1814. If the queen, therefore, ever carried this plate from Kensington palace to any other residence, she exercised a discretion in which she was not warranted by the terms of possession she held of it. It was the practice of the members of the royal family, who resided in the royal palaces, to have plate out of the Crown collection furnished them for their use while they so resided, and what was done in the princess of Wales's case at Kensington was merely what was done in similar cases in all the other palaces. But as the hon. and learned gentleman had been pleased to allude to the probable view which his late majesty would take, if he were now alive, of this transaction, it was fair for him to state, which he could do from undoubted authority, the view that the late king did actually take of the matter at the very time of its occurrence. The princess of Wales not being satisfied with the plate, lord Aylesford went to the king and explained this circumstance, afraid that he might have given offence; and the king then stated, that he had no more personal control over that plate than he had over the Crown lands. How the subject could be revived now, he was utterly at a loss to conjecture. It must have required all the dexterity of her majesty's learned counsel to have brought it under the consideration of parliament. That it came forward under the advice of those hon. and learned gentlemen was evident by the fruits, and pretty fruits they were, which the agitation of the question was so well calculated to produce. If any satis-

factory inquiry had been their object, why not have resorted to either his noble friend at the head of his majesty's government, or the lord chamberlain, who would have explained the real state of the case, and afforded every accommodation which her majesty's situation required. Instead, however, of taking this course, they took that which was less likely to lead to a silent result. He held in his hand a copy of the official letter on which this grave proceeding before parliament was founded, and he thought that the reading of it would decide the fate of this the hon. and learned gentleman's first legal effort in this cause. The hon. and learned gentleman had recently asked leave to attend at the bar of the House of Lords, as one of her majesty's counsel, and he could not help hoping that the hon. and learned gentleman's professional exertions there would prove more successful than they were likely to be on the present occasion. The letter was from lady Ann Hamilton, and addressed to the lord chamberlain, in the following terms:—

"lady Ann Hamilton is commanded by her majesty queen Caroline to desire Mr. Mash will deliver the silver plate, her property, given her by king George 3rd. to the bearer, John Hieronymous, her majesty's steward."

The lord chamberlain, however, was not so much alive to her majesty's ownership as was expected. He would here observe, that the lord chamberlain's answer, which had been read by the hon. and learned gentleman, stating that his majesty had not given any orders for the removal of the plate from the Jewel-office, was so far from being a harsh answer, that it was positively the only one he could give. He again complained of the hon. and learned gentleman, because he either did not understand the question, or had neglected to give it that diligent attention which became a man of business. This was not the first time her majesty had mistaken the real tenure by which she held this plate; which, as he had before stated was merely intended for her use in Kensington Palace. When the princess of Wales was making her arrangements for going to the continent in 1814, she desired her servants to take a more authoritative step than that which lady Ann Hamilton had recently taken under her instructions, for she had actually ordered them to pack up this plate, with the intention of taking it with her. It was actually packed up for that purpose, but was stopped before it could be removed by the following official communication from the lord chamberlain's office:—

"Mr. Mash presents his compliments, and sends an inventory of the king's plate, and requests the same may be immediately packed up for the purpose of being kept in the Jewel-office, until her royal highness's return from the continent."

The plate was accordingly, by this official interposition, prevented from being removed from the country. If it had gone out of the country, he (lord Castlereagh) did not know—perhaps the hon. and learned gentleman could inform him—by what process it could have been brought back. This, however, was not the only step taken by her majesty, on this subject; as the following notification would explain:—

"Sir William Gell is commanded by the princess of Wales to direct that her royal highness's plate, in the care of the lord chamberlain's department, shall be delivered to Mr. Hooper, her agent, for the purpose of being sent to her as quick as possible, as she has at present an absolute necessity for its use. Dated at Geneva, September 28th, 1814."

The answer given to that application was—

"That the lord chamberlain had no authority to allow any part thereof to be removed, as required by sir William Gell's order."

This was the exact state of the case, which the impatience of the hon. and learned gentleman prevented his taking the pains of ascertaining before he made the motion. So much for "the wretched feeling and degraded system" that was said to have dictated the course pursued at present to her majesty, as if it was the first time the subject was started, and as if it had arisen from the present situation in which her majesty was unhappily placed. He now hoped that the House was aware of the real nature of the case, and that it would perceive for what purpose this question had been agitated. If the only object had been to consult her majesty's personal satisfaction and convenience, his noble friend's answer was surely decisive upon the point—it offered to the queen at once a suitable supply of plate for any residence she might select. He again asserted, that this was an attempt to lacerate the peace of the country, by dragging the present question into discussion. He had thought indeed

that the want of success which had hitherto attended such attempts would prevent their recurrence; but as this was unhappily not the case, he trusted the House would mark with reprobation this effort to involve it in discussions which must bring into view those details which they could not lay open with either propriety or delicacy to the royal family, and which certainly could not be made matter of discussion there with any advantage to any of the parties concerned. He confessed that he had been provoked to forget his duty; and a minister could not be guilty of a greater neglect of it than by entering so much into a detail of circumstances that ought to be left to the conduct of the Crown itself, and which were never intended to be made the subject of parliamentary inquiry. If this question could even be shown, by any tortured construction, to affect her majesty's comfort, under her present circumstances, the queen's advisers ought to know that his majesty's ministers were not inaccessible to such claims. Every convenience which they thought proper to ask for the comfort of her majesty would freely be given. Why, then, did they not in this case resort to that channel for information? Why, too, wait a fornight after the answer of the lord chamberlain to lady Ann Hamilton's letter (which he owned he considered a most extraordinary application) and then not wait a day for the presence of a minister in his place to give a necessary explanation? If the hon. and learned gentleman had waited so long, he might have seen the propriety of not rushing into such a question, without himself consulting those persons who were likely to give him accurate information respecting the transaction. That course the hon. and learned gentleman had been certainly bound to take before he introduced a topic so little calculated to add to the dignity or honour of the Crown, or the character of the country. But, instead of communicating previously with the ministers of the Crown the hon. and learned gentleman had even brought the matter forward when he knew there were none of them in the House who had any information on the subject. The agitation of such a topic, in the absence of proper information, could only have a tendency to lower the dignity of her majesty, or to create, if that were possible, a disinclination to extend to her whatever indulgences her situation might be susceptible of. He had already said enough to show the desire that existed to furnish her majesty with plate, or whatever else might conduce to her personal comfort; but with reference to this Crown plate, she was, as the documents he had read proved, utterly mistaken as to the mode in which it had been intrusted to her. So far from this plate belonging to the queen, her majesty might just as well claim his (lord Castlereagh's) estate, and the king had just as much right to dispose of the one as of the other. The plate consisted of old Crown plate of king William's with other articles, not provided out of the privy purse, but furnished from the lord chamberlain's department, which necessarily made them public, not private property. After what he had said, he was persuaded that the House would cordially join with him in putting a decided negative on the present motion.

Lord *Archibald Hamilton*, although he was by no means satisfied with all the points of the noble lord's answer, he was ready to admit that in consequence of what had fallen from the noble lord upon the subject of this plate, the motion of his hon. and learned friend must fall to the ground. If he understood the noble lord right, he contended that his late majesty had not the power of alienating this Crown plate. If so, of course the queen could put in no claim of property for herself to plate so situated. He was perfectly convinced, however, that if her majesty had not supposed herself invested with the right of possessing this plate, she would never have put in the claim she had done respecting it. Her majesty had evidently all along thought the property to be hers, and provided for her own use. She had ordered it to be packed up; she had subsequently sent for it because she was impressed with that conviction. This opinion it now doubtless appeared was an error. If it were true that the late king never did order this plate for her majesty as a present, then, of course, there was an end to the claim which her majesty believed she had in this property. There were one or two observations, however, which he felt himself under the necessity of making in consequence of what had fallen from the noble lord. The noble lord had arraigned the conduct of the hon. and learned member who had introduced this subject very severely, and, he might say, unwarrantably, as coming forward with a complaint of an unusual kind, and unfit for parliamentary investigation, and the noble

lord had also put in a claim for the considerate attention due to his majesty's ministers, in consequence of their desire to consult the comfort and convenience of the queen. He (lord Archibald Hamilton) was perfectly ready to admit that such painful subjects as this ought not to be lightly or unnecessarily made matters of discussion in that House; he admitted they were unfit subjects for investigation there, and ought not to be started until all hopes of explanation elsewhere had vanished. But he asked, was not the particular situation of the queen one which prompted her to seek redress for a grievance any where but from his majesty's ministers? What had been the treatment which her majesty had received at their hands? When the noble lord talked of the artful inflammation of the public mind, and of the system by which he said it was kept up, he would ask the noble lord in his turn, to what was that irritation to be traced but to the course pursued against her majesty? To what but the unmerited degradation to which ministers at the outset consigned her was this spirit to be ascribed? Need he go back further than the exclusion of her majesty's name from the Liturgy; to show the sort of treatment she had received from those who now wanted to claim credit for their forbearance? When the queen came over to this country had she any suitable residence provided for her? She was refused a proper vessel for her conveyance; she was refused the use of a palace for her establishment. Had she not been from beginning to end exposed to every degradation and difficulty. He would appeal to any man whether her majesty had even the ordinary means of communication with ministers; and at that moment she was deprived of the aid of her attorney and solicitor-general. But that was not all. She had to complain of injustice, not merely from ministers, but from that portion of the press that favoured their views. When the queen was said to excite clamour, what would be said to the late attack upon her in a morning paper, which maintained the opinions of his majesty's government, and which was understood to receive their protection and support; and in which it had been proclaimed from one end of the kingdom to the other, that her majesty stood in the way of the public peace, and ought to be got rid of, either as a martyr or a criminal. Ought not government to redress the wrong thus inflicted on her majesty? If they had the power to do so, and yet refrained, were they not highly culpable? He repeated, that it appeared from the noble lord's own statement, that every step which had been taken by her majesty respecting this plate, was taken under the firm conviction that the late king had given it to her, and that it was her own. And here he must say, that it would not be inconsistent with the liberal feelings of the noble lord, of the administration generally, or of their royal master, had some means been adopted of supplying her majesty's wants without compelling her to have recourse to the expedient of hiring the necessary appendages to her table. This fact, along with the rest, must go to the public, and added to his firm conviction, that there never was and never could be brought before the House a subject so unfortunate and so injurious as the present to the interests of the royal family and the country at large.

Mr. *R. Martin* opposed the motion.

Mr. *Hutchinson* regretted that a subject like this, which had no connection with the merits of the great case, should be brought forward in the present agitated state of the public feeling. On the question of her majesty's innocence, he wished to be understood as having formed no opinion. He gave great credit to his noble friend for the candour of his avowal, that after the statement of the noble lord, the motion ought not to be persevered in; or, in other words, that the noble lord had made out a complete case. That frank avowal did his noble friend great credit. A more complete answer, or a more incontrovertible case than that of the noble lord, he (Mr. H.) had certainly never heard; at the same time he thought that the decorous manner in which the hon. and learned gentleman had that evening argued the question on his side, was very much to his honour. It would be presumptuous of him to use such language in speaking of the hon. and learned gentleman, did we not live in times in which, in the most grave assemblies, the most indecorous and improper behaviour and arguments were witnessed. From persons so misconducting themselves, the hon. and learned gentleman had honourably distinguished himself. Still, however, he could not help regretting the language which, according to those channels of information, by which what occurred there was so accurately conveyed to the public, had been

used by the hon. and learned gentleman on Saturday. In the present inflamed state of the public mind, he certainly regretted, that the hon. and learned gentleman had not better informed himself with respect to the merits of the question, before he ventured (he used the word in a parliamentary sense, and without meaning the slightest disrespect) to introduce into his observations, language not justifiable by the facts of the case; before he stated, that, "of all the despicable, base, petty, contemptible insults and oppressions to which her majesty had been subjected, the present was the most disgraceful." It was much to be lamented, that, in the present state of the public mind, a person of the hon. and learned gentleman's respectable character and talents, should have used language which the noble lord opposite had shown was not justifiable by the facts of the case. Adverting to what had been said by his noble friend who had just sat down, of the public press he declared himself a warm friend to the liberty of the press, so much as even to prefer the abuse of it to any unconstitutional restraint; but he could not help observing without great pain, an attempt, as he considered, made in certain publications to impede the course of justice, by most *unjust* and disgraceful excitements; and he felt bound to say, that if the constituted authorities possessed the power of punishing publications which no man could read without indignation and horror, it was their duty to do so. The observation of his noble friend on a paragraph before alluded to in that House, which had appeared several days since in the Morning Post, were perfectly justifiable; nothing could be more indefensible than the language of that paragraph relating to her majesty, nor any more revolting to the feelings of every well-constituted mind. He was sorry to observe in other publications, and some of them highly respectable, topics only calculated to heighten the irritation of the public mind, the manner of treating which went the length of encouraging even the destruction of witnesses. If a stranger could imagine that such language as that he adverted to could be used with impunity, his impression must be, that there were neither morals nor law, humanity nor justice, in the country where such proceedings were tolerated. In very recent publications, the witnesses who, to the disgrace of the country, had been maltreated at Dover, were epithetized as "wretches" of "villainous appearance," as "a cargo of human impurity," as "*enfans perdus*;" that England was too hot to hold them, with a denunciation against their return by no means darkly expressed. Such writings, under the garb of liberality and impartial justice, were in direct hostility to both, and tended to promote that spirit which every honest and enlightened man could not be too forward to restrain. He would again repeat, that he was a sincere friend to the liberty of the press—to economy—to the reform of every abuse, and of that greatest of all, the state of the representation in that House. He was an enemy to Alien acts, and was as anxious as most men to cultivate and merit the approbation of the people; but he as unequivocally declared, that he would most strenuously resist any attempt made to overawe parliament in the discharge of a painful duty; or to effect, by intimidation, that which should now only be obtained after the most patient investigation. Such threats or attempts he would resist with as steady a determination as that which he trusted should always mark his endeavours to obtain for the people a redress of grievances, and for individuals justice, conformable to the true principles of the constitution. He regretted the necessity of saying so much on this subject, and that the present discussion, which he considered most injurious to the cause of her majesty, had been forced upon the consideration of the House. He verily believed, that the present temper and spirit abroad had been created by gross mismanagement in this great pending cause, which, for one, he very much deplored, had not always been concealed from public view; but nevertheless, without wishing now to enter into any retrospective details, it was his conviction that the mismanagement to which he alluded, had mainly excited the present flame and spirit in the public mind. The instant ministers had been in possession, which they now state they were several months ago, of a series of evidence, it was their duty to have immediately instituted proceedings; but on the contrary, their own measures since in this country and elsewhere had effected the mischief deplored by all. He said this however in passing, and not in the spirit of complaint it was now too late, such reflections being now useless. Parliament were now called upon to pronounce between the queen and the country, and at such an awful moment he could not too

often deprecate all incitement to confusion. He agreed fully with that part of the hon. civilian's argument, that the names of illustrious individuals should not be introduced into the debates of that House. The learned civilian had himself most strictly adhered to this line, and which he (Mr. H.) could not but regret had not been pursued by others, who had been reported to have held language as unconstitutional as it was unparliamentary, and as indecent as it was illiberal. He most sincerely hoped that her majesty, if innocent, would come out of the investigation as pure as her warmest friends could wish her; and that, if she should appear to have been persecuted, punishment and disgrace might be heaped upon her persecutors. But all he asked, and all he demanded, was, justice, and that no means of intimidation should be resorted to, either within these walls or elsewhere, to disturb the great public authorities in the discharge of the painful and sacred duty entrusted to them.

Lord *A. Hamilton*, in explanation, observed, that his hon. friend had interpreted rather too largely what had fallen from him. What he had said was, that he understood from the statement of the noble lord opposite, that the king neither had given nor could give any plate under the circumstances in which the plate in question was placed. But he coupled with that declaration a statement, that it appeared to him that the inference from the reasoning used by the noble lord was, that the king could on no occasion make a present of plate; from which inference he totally dissented.

Mr. *Stuart Wortley* declared, that he had never entered the House with more painful feelings than on that evening, impressed as he was with the conviction, that if the case which had been stated by the hon. and learned gentleman on Saturday were borne out by the fact, those who had advised his majesty on the occasion had rendered themselves deeply responsible for such advice. It was therefore a great relief to him, it must have been a great relief to the House, and even to the hon. and learned gentleman himself, to hear the satisfactory explanation of the noble lord. He hoped this circumstance would be a lesson to the public and to the House, and that they would guard against the attempts which were constantly making to delude and deceive, and to create a false impression on this subject. He felt called upon to acknowledge that, on some account or other, it did appear that some of the proceedings taken by her majesty were so taken for the express purpose of agitating and inflaming the country. He most conscientiously believed that the hon. and learned gentleman would never have brought the present motion forward if he had known the facts; but it certainly appeared from the noble lord's statement that either the queen, or somebody about her majesty, must have known that her majesty was not entitled to the plate in question, and therefore that the claim was made only to agitate and inflame the public mind.

Mr. *Huskisson* said, that it was not competent to the Crown to dispose of any property in the custody of the lord chamberlain, as the property of the Crown, without the sanction of its responsible advisers. If his majesty had been advised by the board of Treasury to dispose of any plate deposited in the Jewel-office, a warrant signed by the Crown and countersigned by the Treasury, would be the only legal instrument for the conveyance of that plate. But in the transaction under consideration, that had not been the case. He (Mr. Huskisson) happened to be in the Treasury in 1808, when orders were given to fit up apartments in Kensington-palace for her majesty, then princess of Wales. Application was made in the usual way to the lord chamberlain, for furniture and other requisites for those apartments, and as a part of those requisities, for a suitable service of plate. The latter part of the application had occasioned a considerable discussion between the lord Chamberlain and the Treasury. He (Mr. Huskisson) had suggested to the lords of the Treasury that it might be desirable, with a view to a diminution of the expense, to ascertain whether there might not be in the possession of the lord chamberlain plate not used. An inquiry was accordingly made, and it was ascertained that the lord chamberlain had in his possession, as property of the Crown, plate which had not been used since the time of king William. That plate was remodelled, and appropriated to the purpose required. To suppose for a moment that it was a personal present from his late majesty to the princess of Wales was a supposition wholly unsupported by facts. When the plate was delivered, in 1808, an entry (as described by his noble friend) was made by the lord chamberlain, that it was his

majesty's plate lent for the specific use of the princess of Wales in Kensington Palace. Such was the ordinary practice. When the duke of Cambridge occupied apartments in St. James's Palace, plate and furniture were sent to him from the lord chamberlain. When, in consequence of the fire in the palace, his royal highness removed to a private house, the plate was restored to the Crown. In all cases it was merely an accommodation suited to the specific residence granted by the king for the time. At Windsor it was the same. The plate used there was for that particular palace, and could not be removed without such a warrant as would give the means of distinctly tracing it. After the discussion in 1814, when the matter was distinctly explained to Mr Hooper, her majesty's agent, he was astonished that her majesty, or her agents, could have any misconception on the subject. A personal present from her majesty it could not be, unless it had been purchased out of the privy purse.

Dr. *Lushington* was persuaded that, after the various observations which had been levelled at him in the course of the present discussion, the House would have the candour and kindness to indulge him for a few minutes. He could assure them, that he would not occupy their attention by any answer to the noble lord's personal remarks on him, or on the exercise of his humble talents. His character, as a legal adviser of her majesty, had been wholly unsought for by him. However, as notwithstanding his humble abilities, her majesty had been pleased to honour him with her selection, he would endeavour to discharge, whatever share might fall upon him, of the duties of her majesty's legal advisers, with fidelity and zeal. The manner in which he had brought forward his motion on Saturday, had not been accurately described by the noble lord. The facts were these; and he thought that he owed it to his own character to state them. On Friday he, for the first time, became acquainted with the circumstances connected with the plate. It was then settled between her majesty's solicitor-general and himself, that he (her majesty's solicitor-general) should make a motion on the subject on Saturday. It was not until late on Saturday that he (Dr. Lushington) was apprised by his hon. and learned friend that he was compelled to leave town, and that the task must therefore fall on his (Dr. Lushington's) shoulders. Thus he was unexpectedly involved in the responsibility of bringing the subject forward. He had himself suggested to his hon. and learned friend the propriety of sending notice to the noble lord opposite of his intention, in order to prevent the noble lord from being taken by surprise. When he (Dr. Lushington) came down to the House, he asked the chancellor of the exchequer if the noble lord might be expected? The right hon. gentleman's answer was, that he did not exactly know; but that it was not improbable that his noble friend would come down. While he was waiting in the hope of seeing the noble lord enter the House, the business proceeded with more than usual rapidity, and the Speaker, coming to his name in the paper, called on him. What could he do? Was he, as the only responsible adviser of her majesty present, to postpone her majesty's case, when he could not know the possibility of bringing it forward on another day, for it was not then settled that the House should sit tomorrow? Was he, under such circumstances, and merely out of respect to the noble lord, to neglect his duty? If in the step which he had taken he had erred, he declared that it was not with the slightest intention of avoiding the full and fair discussion of the subject. It had been said by the noble lord that motions of this description were made for the sole purpose of inflaming the passions of the people, and exciting out of doors an agitation extremely inimical to impartial justice. He (Dr. Lushington) declared, that if he had known any better way than by an application to that House, of securing the object in view, he would not have resorted to such an application; for, as far as his humble advice might influence her majesty, her majesty should never intrude on the notice of the people, except in a case of deep and unavoidable necessity. But, notwithstanding the observations of the noble lord on the character of the intercourse between her majesty and his majesty's ministers, he was decidedly of opinion that her majesty had not experienced from his majesty's ministers the liberal and respectful treatment to which, as their sovereign, she was entitled. One instance of this he would call to the recollection of the House, and he would appeal to their justice and candour if it did not bear him out in the remark which he had just made.

The House would remember, that when her majesty wrote to the noble lord at the head of the Admiralty, requesting that a yacht might be provided to convey her majesty to this country, that noble lord simply stated, in his answer, that his majesty was out of town, and therefore that he could not reply to her majesty's request. Now he (Dr. Lushington) said this, that when the queen of the country made such an application, it was the duty of the noble lord at the head of the Admiralty, to go whithersoever his majesty might happen to be at the time, and without delay to communicate her majesty's request to the king. When her majesty received a note of that description, so worded—when she saw that her request was neglected, and that she was compelled to take refuge in a common packet-boat, it was certainly no great encouragement to her majesty to apply to his majesty's ministers again on any subject connected with her comfort and accommodation. The noble lord had accused him with having proceeded on a garbled statement of the facts. Where was the garbling? He had read to the House the whole of the official documents in his possession. But he had not been quite so negligent in the discharge of his duties as the noble lord appeared to suppose him to be. He had applied to those who made the plate, and had been told that the plate in question was made by order of the lord chamberlain, paid for by him, and delivered to her majesty; and that it was plate on which her majesty's taste and judgment had been consulted in the manufacture; not old plate. It had been truly observed, that the conduct of her majesty afforded abundant proof that she conceived the plate was a grant to her from his late majesty. Whatever might be the facts as to the plate being locally attached, and possessing an irremovable character, it was not to be supposed that her majesty could possibly be aware of them. This was still more apparent from the circumstance mentioned by the noble lord, namely, that in 1814 the queen sought to take the plate with her to the continent, which showed her conviction that it was her property; and that when she was abroad she again applied for it, which proved that her conviction on the subject remained unchanged. It was not, therefore, just to suppose that he had been employed to advocate a claim which was not believed to be founded in truth and justice. It was observable that no doubt had been raised upon this question until after the calamity which rendered his late majesty no longer capable of holding the reins of government. To the memory of his late majesty's conduct towards her present majesty, he might safely appeal. He entertained a confident persuasion, that if it had pleased God to spare to his late majesty the possession of his faculties, and consequently of his royal authority, England would never have had to rue the agitation of a question which shook it to the very centre. After all that had passed in former times, it was not too much to suppose, that in the present instance his late majesty would have extended that protection to the queen which she had uniformly received from him. The noble lord had alluded to some conversation of the earl of Aylesford with his majesty on the subject; but, in investigations of much less importance, hearsay evidence was always looked upon as most unsatisfactory. He would only add one or two observations on what had fallen from some other hon. members. He should have hoped that the hon. members for Yorkshire and Cork would have felt a little more indulgence than they had evinced for the difficulties and embarrassments under which her majesty must naturally labour. He should have hoped that they would not have taken the present opportunity to vent their disapprobation of her majesty's conduct, without knowing how far that conduct might have been dictated by necessity. It was true that her majesty did not want money; but she was in utter want of a proper establishment, and of all that appertained to her convenience; of accommodation for horses, for carriages, and for every thing else which might enable her majesty to appear in public in a way consistent with her dignity. As to her majesty's appearing so frequently in the streets, was she to be compelled to live constantly in a house where she was not for a moment secure from the intrusion of the public? He appealed to every hon. member who had passed by her majesty's residence, whether he had not always seen all the blinds drawn? If that were not done, her majesty would be exposed to the gaze of all who chose to look in upon her. Was her majesty to keep herself there as a prisoner? Was her majesty, for the sake of consulting the fastidious opinions of cer-

tain hon. gentlemen, to be guilty of the wretched affectation of remaining in a state of confinement? He must say, therefore, that the observations which had fallen from the hon. members, to whom he alluded were by no means creditable to their feelings in the aspersed and calamitous condition in which her majesty was placed. The right hon. member for Chichester had stated, that it was not in the power of the Crown to grant such plate as that which was the subject of the motion. That was a fact which he (Dr. Lushington) would not dispute. On such a subject he was not competent to contend with the right hon. gentleman. But would the right hon. gentleman say that it was not usual for the king to make presents out of the civil list? He (Dr. Lushington) believed that it was very usual; and how therefore could it be expected that her majesty should be acquainted with the precise formalities of the subject? He trusted that, whatever might be those formalities, the House would agree with him, that in substance her majesty's request could not with any regard to liberal feeling be refused. Of this he was persuaded, that every act of his majesty's ministers, which showed a regard and a compassion for the painful circumstances under which the queen laboured, would be beheld by the people with admiration and joy, and the more especially, the more directly it might appear to emanate from the king himself. Conduct of that kind would tend infinitely more to allay the existing discord than any severity, however authorised by form. This at least he hoped—that whatever blame might attach for the present proceeding would attach to her majesty's law advisers. If they had been indiscreet, let not her majesty be implicated in their indiscretion. For himself, that which he had done was a matter not of choice but of necessity. It was his duty to offer himself to the House on the present occasion, and he deeply regretted the absence of his hon. and learned friend, who would have done much more justice to her majesty than it was in his humble power to do.

Lord *Castlereagh* observed, that the communication from the hon. and learned gentleman of his intention to make his motion on Saturday, although dated on Friday, did not reach his office until Saturday, and him personally until Saturday evening. He was at a loss to conceive why the hon. and learned gentleman had not given public notice in the House on Friday evening of his intention. What he complained of in the conduct of the hon. and learned gentleman was, that as it was not proposed that at the earliest the House should adjourn before to-day, the hon. and learned gentleman had not contented himself on Saturday with giving notice of his motion for this evening. He perfectly agreed with the hon. and learned gentleman, that under the existing circumstances the conduct of her majesty's advocates should always be judged of in the most liberal manner.

Mr. *Hutchinson* was sure that the hon. and learned gentleman did not mean to put words into his mouth which he had never uttered; but he (Mr. Hutchinson) had distinctly stated, and he begged not to be misunderstood, that he had not formed any opinion on the merits of the great question. He was in the recollection of the House, if he had said of her majesty any thing which could justify the term of "fastidious opinions," which the hon. and learned gentleman had imputed to him by name—or at least as member for Cork. The whole of his argument had been confined to disapprobation of the advice under which the present motion had been made. He was convinced that her majesty supposed she had a right to the plate in question, but he decidedly disapproved of advice which tended to injure her majesty by the injudicious and imprudent agitation of the present question. It was totally unfounded to assert that he had said any thing to asperse the queen.

The motion was then put, and negatived.

HOUSE OF LORDS.

Tuesday, July 18.

CRIMINAL LAW.] The Marquis of Lansdown moved the third reading of the Capital Felonies Repeal bill.

The *Lord Chancellor* observed, that so far as he had been able to make himself master of the subject, the effect of the repeal of these statutes would be, that where the offences referred to were misdemeanors at common law, they might be so prosecuted, and where there were any previous statutes affecting them, those statutes would come into force. He repeated his objections to the repeal of the provisions of the 9th Geo. 1st, c. 22 (the

. Black Act) respecting persons assembling with their faces blacked, &c. with reference to whom the punishment of death was enacted, on the express ground of the difficulty of convicting them. He therefore felt it his duty to move to omit the words referring to that statute.

The bill having been read a third time, the words objected to by the lord chancellor were struck out, and the bill thus amended was passed. The marquis of Lansdown then moved the third reading of the Capital Felonies Commutation of Punishment bill.

The *Lord Chancellor* repeated his objection also in this case, to the taking away the punishment of death from certain offences enumerated in the 9th Geo. 1st, c. 22, such as cutting down trees, killing cattle, and cutting through the banks of rivers, or sea banks; for though the cutting down one tree, or the destroying one head of cattle might not be an offence which it would be fitting to visit with the punishment of death, yet the destroying a whole forest, or killing all the cattle on a farm to the ruin of the occupier, were offences of serious magnitude, and it should be observed, that in general maxims of law, the smaller crime could only be classed with the greater in the same genus of offence (if he might so express himself), leaving it to the discretion of judges to make the distinction in the punishment. He thought the better way would be to strike out these and some other parts of the bill, and to let that branch of the subject stand over till next session, when they might have the opinion of the judges as to the expediency of repealing these enactments.

The bill having been read a third time, the lord chancellor moved his first amendment, to leave out the words referring to the 9th Geo. 1st, c. 22.

The Marquis of *Lansdown* was willing to agree to the course proposed by the noble and learned lord with reference to this bill. He could not, however, quit the subject for the present without observing, that the number of convictions (so far as they had been ascertained) for the offences respecting which the learned lord objected to taking away the penalty of death, did not tend to show that the continuance of that punishment was at all efficacious. It appeared that there had been 25 commitments for these offences on the northern circuit, but only two trials, and no conviction; it was evident, therefore, that through a feeling existing somewhere it was not thought fit to proceed to the extremity of the law; and this served to show that the extreme severity of the punishment defeated its own object. In cases of fraudulent bankruptcy the learned lord agreed to the repeal of the capital punishment, it being evident that the severe penalty of death defeated the whole object of the law by deterring persons from prosecuting. In the case of threatening letters it was not proposed to take away the punishment of death where the object of the threat was money, but only from the general and, in some respects, undefined term of threatening letter. It should be recollected however, that with respect to all the capital punishments sought to be repealed by the present bill, there was a clause at the end of the bill giving a discretionary power to the judges to transport the parties convicted, either for life, or for any term not less than seven years.

The Earl of *Liverpool* observed, that the great defect in our criminal legislation was the want of a secondary punishment, that might be substituted for the terror of death, and for which purpose transportation, as now managed, was of little or no avail. Several years ago, when transportation meant either to be transported to the worst and most noxious climate in the world, that of Africa, or to the British colonies in North America, where the parties transported became indented servants, and were in fact treated worse than the negro slaves, this punishment served to excite some degree of terror. Now, however, the system was entirely changed, and the colonial office was besieged with applications without end (many more than could be complied with), from persons wishing to have liberty to settle in the delightful country and under the fine climate of New South Wales. It was in vain, therefore, to talk of transportation as a punishment carrying with it any species of terror; the fact was, that to a number of offenders, who had become well known as notorious characters in this metropolis, transportation to New South Wales was precisely what they wished for. The terror, therefore, of the punishment of transportation for life just amounted to nothing at all, with reference to the class of offenders to whom, in general, it was to be applied. He highly respected the talents of the hon. and learned gentleman

who originated the inquiry in the other House from which these bills resulted, but his opinion was, that the inquiry had begun at the wrong end, and that they should first direct their attention to the discovery of some secondary punishment, the terror of which might serve in a number of cases as a substitute for the terror of death.

The Earl of *Rosslyn* said, that all offenders in such cases knew even now, that when convictions could be obtained under the act, transportation was practically the punishment to which they had to look; so that the nominal penalty of death did not operate as a prevention of crime.

The *Lord Chancellor* admitted, that where it was possible, the punishment of death should be dispensed with, but maintained the necessity of providing a better regulation of secondary punishment than mere transportation. He further added, that it was his intention to bring in a bill next session, containing the clauses now rejected, with a view to obtain the opinion of the judges upon them.

Lord *Redesdale* said, that the great obstacle to prosecutions was not the severity of the punishment that followed, but the expense of conducting them, and suggested the propriety of having such expences paid in certain cases by the public.

Earl *Bathurst* doubted whether transportation could ever be made a good secondary punishment. His majesty's ministers had already sent out a commission to New South Wales, in order to inquire whether some regulation might not be made in that colony, with a view to increase the punishment against great offenders, and to mitigate it towards those of smaller criminality. As it stood at present, it was far from operating as a punishment in many instances. Another objection to transportation was the great expence to which it put the country; and one of the objects with which the commission was charged, was that of estimating the expence of any system which they might think proper to recommend, the estimate of course to be laid before parliament when the subject should happen to be brought under their consideration.

The Marquis of *Lansdown* thought that the more the punishment of death was confined to cases in which violence was added to the crime, the less frequent would be the instances in which violence would take place.

The amendments proposed by the lord chancellor were then agreed to and the bill was passed.

STATE OF THE NAVY.] The Earl of *Darnley* said, he had submitted a motion some time ago to their lordships, in consequence of a disaster which had taken place during the late American war, and which appeared to him to have arisen in a great measure out of the inadequacy of our force. His attention to that subject was, he believed, attended with some good effects, and it was his wish to have brought the general administration of the navy more fully under the consideration of parliament in the present session, if the public mind had not been unfortunately too much occupied with another subject. He had moved for a return of all ships of the line ready for service, or ordered to be built, and of ships or frigates of two decks not carrying less than twenty-four-pounders; and he found by the return, that the present amount was 57, and the amount of those ordered to be built 17. He had, however, to observe, that the few frigates ordered to be built were of too light a description to answer the purpose for which it might be necessary to use them in the event of a war, and that the Admiralty appeared to him not to have adopted a proper degree of efficiency and economy in their arrangements. It was his intention to have called upon the House to sanction a proposition recommending retrenchment in every branch of the public expenditure. He regretted to find that the naval estimate for the present year was greater than the last, instead of being less, as it ought to be, when once it was put in a state of efficiency. It was absolutely impossible that the country could go on with an increasing expenditure and diminishing income. He hoped, therefore, that ministers would not think it enough to lop off an unnecessary clerk in this or in that department, but that they would put their shoulders to the wheel, and try what could be done by the adoption of a general and compulsory system of retrenchment. The great department of the navy was that in which above all others profuseness might be admitted with least disadvantage; but as he could show that even in that some saving might be made without injury to the public service, it followed *a fortiori* that in the other departments much might be done to promote the great object of economy.

Lord *Melville* agreed with the noble lord, that as the navy increased in efficiency, the expense ought to diminish, and he hoped their lordships would find this to be the case in every succeeding year. It was not, after all, the number, but the durability of the ships, that should be considered; and the House would do well to recollect, that other powers built ships for temporary purposes, but the ships of the British navy were intended to go through a course of service which other navies never contemplated. It was certainly the duty of government to have ships ready to go to war; but their lordships had observed in the committee on foreign trade, that towards the conclusion of the late war, government was compelled to resort to the use of materials which introduced a more rapid decay among the ships than ever was known before. But care was now taken to prevent that in future. The noble lord had stated, that the ships now building were not of a proper class; but he ought to recollect, that we must build after the manner of those countries with whom it was possible that we might be engaged. Looking to America, it would appear that they only built large ships of 80 guns. As to the second class, the object of government was to repair those which were likely to be durable. The same observation applied to frigates of 40 guns. It was true that the United States built frigates as large as 60 gun ships, but the common size was 40 guns, and those of the different powers of Europe were of the same description. Great-Britain had some 60 gun frigates building; but her object was to have numbers as well as force, so as to be able to spread over as large a surface as possible to the annoyance of the enemy.

The Earl of *Darnley* expressed himself satisfied at the candid and satisfactory manner in which the noble lord had made his statement, and particularly at the prospect he had held out of decreasing expense in the general administration of the navy.

Alien Bill.] Lord *Sidmouth*, on moving the second reading of this bill, said, it was not his intention to enter at any length into an explanation of the principle of the bill, nor did he conceive that it would be necessary for him to discuss with minuteness the motives upon which he should submit that the second reading should now take place. The measure was founded upon a right that was possessed by the Crown, and had ever been attached to the royal prerogative: it was that of sending out of the country, or prohibiting from entering it, such foreigners as it might be deemed proper to exclude from this kingdom. It was the less necessary for him to say much as to the matter of the present bill, because one of a similar nature had been passed in 1816 and in 1818. It was principally necessary, therefore, for their lordships to consider, whether or no, contrasting the present situation of Europe, and its relations with this country, with its situation and relations in 1818, they could feel satisfied that such a favourable change of things had taken place as to render a measure which they had decided to be necessary then, unnecessary now. To himself this subject and this inquiry were matters of the deepest importance; and his majesty's ministers, from any information which they possessed, were not satisfied that such a favourable change had been effected. His lordship contended that a much stronger necessity for this measure existed at present than in 1818. Now, as to the principle of the bill, the inconvenience to which it subjected the alien upon his arrival in this country was this—that upon his landing he was required to give in his name, place of destination, and occupation. This description was to be given to the Custom-house officers, or to the collector of the customs, at the port in which he might land; and the officer or the collector was required to furnish the alien with a certificate of his compliance with these conditions. From that moment the alien was at liberty to go where he liked, and to fix his residence where he pleased. Upon leaving the country, all that was required of him was a similar return. He did not mean to deny or undervalue the extent of that power which would thus be lodged in the government; but it was one, he should contend, which it was competent for any executive government to exercise, in all cases where they might think it expedient. Whether it was a power which, in the hands of subordinate officers, had or had not been abused, he was not at liberty to say; but he could answer for the anxious solicitude of the government that those individuals who were empowered under the provisions of the bill should exercise it considerately and with propriety; and the pre-

sumption arising out of the great number of cases which had occurred, wherein its exercise had become necessary, was this—that it had not been abused. The noble lord concluded by moving the second reading.

The Earl of *Darnley* said, that he, for one, was not bound by the argument which was implied by the observation of the noble viscount—that those who had supported the bill formerly could not consistently oppose its renewal on the present occasion. Had he been present when this bill was passed in 1818 he should certainly have signed the protest against it which he found recorded on the Journals; for he considered it as impolitic and unconstitutional an act as had ever been framed. After six years of profound peace, and when no reasonable ground whatever could be alleged for the necessity of the measure, he conceived that nothing could be more disgraceful to the country than suffering such an act as this to exist. Was it possible to believe that the safety of this great nation could be affected by either allowing or prohibiting a few foreigners to reside in it? He could not help remarking, that a great part of the noble lord's argument was derived from his own feelings and disposition; but, at the same time that he was willing to give the noble lord every credit which his warmest friends could give him for mildness and moderation and discretion, he would not consent to arm him with such powers as this bill imparted.

Lord *Holland* felt it absolutely necessary to offer a few words, by way of protest, against the renewal of this bill. Having so frequently on former occasions stated to the House, and recorded his opinion on their lordships' Journals, that bills of this sort were cruel, unjust, and impolitic, he could not help now making a few remarks on the manner in which this measure was introduced, although he felt the irksomeness of addressing the House under circumstances which rendered it extremely difficult to obtain an attentive hearing, both on account of the late period of the session, and the interest and importance of other subjects which engrossed the attention of parliament and of the public. With regard to that subject to which attention seemed at present to be exclusively directed, he would say, that their lordships and the other House of Parliament stood in a situation similar to that described by a Mr. Eden, who had written an account of his travels in Turkey. Mr. Eden, in visiting a town in Bulgaria, was introduced to the Greek governor of the place, and, on his introduction, he found, seated in the governor's apartment, a Turk of great distinction, who immediately ordered the head of Mr. Eden, and those of his twenty-six attendants, to be struck off. In pursuance of the order of this Turk of distinction, a person appeared with a bag—no doubt a green bag, as peculiarly suited to the purpose—and a quantity of sawdust: the bag was intended to receive the heads of Mr. Eden and his companions, and the sawdust to absorb the blood. It would naturally be supposed that Mr. Eden would be anxious to state the country to which he belonged, and to explain the object of his visit. For this purpose it was necessary to have recourse to his interpreter. The interpreter, however, had unfortunately caught a glimpse of the green bag under the arm of the executioner; and the only words that he was capable of uttering were, "quel sacco! quel' maladetto sacco!" Oh! that bag! that accursed bag! [a laugh.] Thus Mr. Eden and twenty-six other persons were in danger of losing their property and their lives in consequence of their interpreter having got a sight of this bag. Now he conceived that their lordships and the other House were nearly in the same situation, and that parliament, the lawful interpreter of the wishes of the country, allowed the nation's pockets to be picked, and its affairs to be neglected, because they could not lose sight of the green bag on the table. If the subject of the present bill were not one of importance, he should have been almost diverted by the manner in which it had been introduced by the noble viscount: it was indeed what might be called "cool and easy." Instead of stating any grounds to show the necessity of the measure, the noble viscount had asked, if any one saw reason for not doing, in 1820, what had been done in 1818? The fact was, that this was a bill to deliver over twenty or thirty thousand people to the power of his majesty's government; for it should not be forgotten that, when parliament gave ministers a power over the persons of these individuals, it gave them necessarily a power over their property, and every thing that was valuable. He had heard the noble viscount, on other occasions, when he

introduced measures of restraint on liberty, eloquent in his eulogiums on the excellence of our constitution; but the bill which he now introduced was a satire on the laws of the land—a libel upon the constitution of Great Britain. Let their lordships advert to the principle of this bill. Aliens were talked of as Roman Catholics had been talked of and were represented—as a race of men against whom it was necessary to guard, in order to prevent the subversion of the laws and the destruction of the constitution. He would not deny that there might be bad men among aliens; but who would say that they were likely to subvert the government? Had we no laws at present? and what security did the country want against aliens but the ordinary laws of the country? Whatever might be the malignity of an alien, or how atrocious soever might be his motives, he could see no necessity for a new law to guard against his machinations any more than against those of a Thistlewood, or any other person who might harbour traitorous designs. The noble viscount had stated two arguments in favour of this bill; the first, that the power which it granted was already a prerogative of the Crown; and the other, the strong presumption that this power would not be abused. On the first of these arguments he should not say much; but he must observe, whatever civil writers might say upon the subject, that that prerogative could not be proper, the exercise of which was not for the benefit of the people. From the period of Magna Charta down to the time of queen Elizabeth there was no trace of the existence of any such prerogative, although during that time no fewer than twenty-seven acts had been passed relative to strangers and aliens. The noble lord then adverted to a well-known proclamation for sending all Scotchmen out of the country, and which, he observed, was authorized by an act of Henry 7th, which, together with other acts prejudicial to Scotland, had been repealed by James 1st. This fact showed that the prerogative in question did not then exist; because the exercise of that right required an act of parliament to sanction it. That the power of sending strangers out of the country existed in the executive government was not denied by any one who opposed the present bill; at least it was not denied by him; but, though that power was vested in the supreme government of the country, it by no means followed that it was a prerogative of the Crown. With regard to the other argument of the noble viscount, he would observe, that where there was no redress for an abuse of the law, there was, in fact, no law; and this was precisely the situation of those unfortunate aliens who were the subjects of the present bill. He certainly did not know that there had hitherto been no abuse of this power; but of this he was sure—that, whatever had been done beyond the powers of the late act, the individuals who had suffered had no power of complaining or of obtaining redress. He would not mention any names; but, as to one individual, whose papers had been seized, it was evident that, when once sent out of the country, that person had no means of ascertaining the fact whether the seizure was legal or illegal. He would not say how far that proceeding was sanctioned by law; but, at all events, the individual in question should have had an opportunity of knowing, before he was sent out of the country, whether his papers had been legally seized or not. He (lord Holland) had on that occasion offered to take out a power of attorney, but had been told that in such a case he could not act on that power. For obvious reasons, he declined mentioning the name of the party. Although in habits of friendship with the noble viscount, he could not pay him any compliments on account of his mildness and moderation; the noble viscount's conduct for the last five or six years had much altered his opinion upon that subject. The question, however, was not whether the noble viscount was disposed to abuse this power; but it was his (lord Holland's) duty, as a member of parliament, to bear in mind that, where arbitrary power was conferred, it was sure to be abused. That, he was confident, was a general principle, which could not be disputed. This bill placed abuse in the power of an individual; and the prostration and degradation of mind was the same to the person subjected to that power, whether it was exercised or not. Its existence was the evil complained of; and, while it existed there would be a constant apprehension that it might be used. It was this that constituted the difference between the power of will and the power of law. He had himself known instances in which advantage had been taken of individuals, by stating that such a power

as this existed, and might be called into exercise against them. He would not, for obvious reasons, mention names; but he would suppose a case, in which a foreigner had been addressed in the following words:—"You saw the bow and the gracious smile which I received from lord Sidmouth just now; if you claim payment of the debt which I owe you—if you do not give me six months more credit—I will go to the secretary of state's office, and report you as a Jacobin and an incendiary." Such was the use which he had known to have been made of this law—a law of which, as it was not now in existence, he was at liberty to say, that it was one of the most atrocious engines of arbitrary power that ever had been devised. He had that morning had a conversation with a gentleman who possessed a great property in a neighbouring country to this; and who, because he had found it necessary to institute a certain proceeding, had been taken up, and twenty-four hours afterwards, sent off to this country. He would not mention this gentleman's name, because he was anxious to return, as soon as possible, to avert the consequences of the step which had already been taken respecting him. But if such a power as this had been exercised by the government of another country, before the Alien bill had been in existence, would not a representation have been made on the subject to this friendly power? Now, however, if the English government should remonstrate, the answer would naturally and justly be, "Your mouths are shut: have you not exposed our subjects to cruel and arbitrary treatment? and, that being the case, can you complain of our arbitrary conduct to yours?" It might be said, in answer to the complaints of other nations, that it was an exaggeration to attach so much importance to the sending of nine persons out of the country; but still they would be entitled to reply, "You boast of your English law, but by this petty, insulting, unsocial, and inhospitable conduct, you shut us out from the benefit of those laws." He could not refrain from saying a few words on the impolicy of such a measure as this at the present moment. Under the sanction of this bill it would not be impossible for ministers to send out of the country any persons who might happen to be obnoxious to other governments; and the present political state of some parts of Europe by no means precluded the possibility of such persons being obliged to take refuge in Great Britain. He looked forward to the result of those events which had lately occurred in Spain with as much hope as any man; but he was not so sanguine, after the experience of so many revolutions, as to entertain no apprehensions whatever respecting the favourable result of those events. He would suppose that the nobility and clergy of Spain were to encounter the same persecution that those classes had experienced in the course of the French revolution, and that they were also to seek refuge in this country. If, in that event, the government of Spain should say, "Why do you foster our exiled king, or our rebel subjects?" we might reply, if there were no alien bill in existence, that our laws would not allow us to send them out of the country; but no such answer could be given if the Alien act were in force, for it would fetter the government in the exercise of that policy which humanity, as well as the best interests of the nation, dictated. This view of the subject might be illustrated by what had occurred in a neighbouring country in consequence of a measure which, though not similar to the present, had been apparently dictated by the same policy. It so happened, that, after the law relative to the regulation of the French press had been passed, the revolution broke out in Spain. The minister of Spain complained of paragraphs which appeared in the French papers on the subject of the Spanish revolution, and called on the French government to put their new laws in force, in order to prevent the publication of such articles. It was argued, that the toleration of such writings might have been very well six months before; but that, since France had then a law which empowered the government to suppress publications of that nature, Spain had a right to insist on their suppression. He had even been told that the Spanish minister had enforced his application to the French government by a threat which it had not been thought prudent to despise; and had said, "It is true we cannot cope in the field with the French army; but we can plant the tri-coloured flag on the Pyrenees, and that will set you at war among yourselves." But it was not sufficient that there was no abuse of such powers, there ought to be no dread of any such abuse. What might be the effect, or rather what might

not be the effect, of such an apprehension in a case which at the present moment occupied the whole attention of the country? Would there be no difference between the feelings of a foreigner coming to this country as a witness to support the prosecution instituted by government, and those of an individual whose evidence was to defend the party accused? He would put a case:—Suppose, for instance, a subject of Austria—and he would advert particularly to Austria, notwithstanding her immediate connexion with this country, because, in all times, and according to all history, if ever any thing mean, oppressive, or treacherous was to be done, Austria was the party pushed forward to execute it—he would suppose a subject of Austria to have been placed in some situation which would render his evidence highly advantageous to the queen; and he would suppose that same individual to have incurred, probably by some virtuous and meritorious act, the displeasure of his government, and to be resident in France, or in the Netherlands. Did the House think that such a person (not being acquainted with the virtues of the noble viscount) would, out of mere chivalrous gallantry, and in favour of a person of whom he knew nothing, come over to this country, and do any thing disagreeable to a power whose very nod could conduct him instantly to any port in Austria? The only argument in favour of the measure was, that it had not been abused; it was agreed that it might be abused—and what advantage, he wished to know, was to result from it? In the words of a most emphatic and eloquent writer, he would say to the House, and it should be the last observation with which he would trouble them upon the subject, "You contradict the spirit of our laws, you shake the very foundation of British jurisprudence, when you intrust a power over the lives, the properties, or the liberties of others to any man, or set of men, upon the mere presumption that that power will not be abused."

The Earl of *Liverpool* thought that the only question for the consideration of the House was, whether the same reasons which had applied to the enactment of the law in question did not now call for its continuance during the additional period proposed? Unwilling, however, as he was, at that hour, to enter into the discussion of general principles, he felt it impossible to leave unnoticed the observations which had fallen from the noble lord opposite. It had been declared by the noble baron, as well as by the noble lord who had preceded him, that the bill in question was one which rendered us obnoxious to Europe at large. Upon what position this argument was grounded he found it difficult to discover, because every country in Europe but our own was armed with an act of similar powers. The great objection, however, was not, it appeared, to the power, but to the hands in which the power was vested. When it was admitted that the government did possess the power in question, he took that admission to mean that the power did exist practically somewhere; and where could it, he would ask, be vested, if not in the Crown—subject of course, to responsibility through the medium of its advisers, and subject to the regulation and modification of parliament? That the power of dealing with aliens was a power vested by the common law in the Crown, was evident from all the laws which had, from time to time, been passed in favour of such persons. The very condition contained in Magna Charta in favour of aliens was a proof of that fact. The grant there made by the sovereign for the benefit of the people, who derived advantage from the resort of foreigners to this country, was evidence that the power of prohibition was resident in the Crown. The noble lord would not deny that the king possessed the right of excluding alien enemies; and how many individuals of that order had, during the late war, been dwellers in this country, to whose situation all the arguments against this arbitary power as it was termed would be perfectly applicable? The question, after all, came to this—aliens possessed none of that right or interest in the soil which belonged to natural-born subjects, or even to denizens; and had not the common law and the common sense of mankind, in every time, and in every country, given practical power to existing governments to prevent such persons from entering their territory, or to drive them from that territory when their stay should seem unsafe? Upon the question as to the necessity of continuing this act, he would refer the House to the general state of Europe and of the world; and, in answer to the allusions which had been made to the very important proceeding now pending, he would ask of the noble lord himself, whether, even supposing ministers to be the most vindictive of

men—supposing their object in that great inquiry to be—what God forbid it should be—the perpetration of injustice—suppose them inclined to act ever so partially in the prosecution of that inquiry—could they take any course more likely to defeat their end than by an attempt to obstruct that evidence which the illustrious person concerned might think fit to adduce in her favour? Sheer interest would prevent such an attempt. It must infallibly recoil upon themselves. What must be the conduct of the able counsel who would defend her majesty if any such attempt were made by government? And, with respect to any apprehension which such witnesses might entertain as to the dispositions and opinions of the people, he could only say he, personally, had much rather land at Dover as a witness for the queen than as a witness against her; and he believed that the same feeling would attend even his arrival in London. There was one more point upon which he would detain the House, but only for one moment. He alluded now to the manner in which the noble lord had stigmatized the conduct of the government of Austria—a government to which this country owed peculiar obligations—a government which to which, during a twenty years' war, had never submitted for a moment but from necessity; and which had always been foremost again to draw the sword for the recovery of her own rights, or in defence of the rights of others. That an attack so unwarrantable had been made upon that government he could not but regret. It was a government composed of various states, and of divided interests; but there were many provinces—of course he did not speak of all—under the dominion of that government than which none in the world could enjoy more practical liberty, or feel more attachment to their ruling authorities. Austria, he would repeat, had in all cases done her duty towards this country as an honest and faithful ally; and he should have felt himself wanting in duty and in justice if he had permitted the assertions of the noble baron opposite to pass without an answer.

Lord *Holland*, in explanation, said, he did not speak of the conduct of the Austrian government with respect to its own subjects; but he did say, and he would repeat it, that not merely from the examination of history—not merely from the consideration of modern events, but from his own personal observation—for he was in Austria, though certainly he never was in any of those happy provinces which the noble lord had described—he did say that there never was a government, which, from its conduct towards individuals from the days of Charles 5th, to the present time, had uniformly displayed more meanness, more severity, and more injustice than the Austrian government. Any persons who had ever lived in any of the provinces dependent on that government, would justify him in that assertion. From what had fallen from the noble earl, he must suppose that government had last night received payment of the large sums due by Austria to Great Britain. He was inclined to think so from the very animated manner in which the noble lord bore testimony to the extraordinary honesty of that government [a laugh]. He would, however, again declare, that he never knew—that he never read—of a government that had been more uniformly mean and unjust than the government of Austria.

The Earl of *Carnarvon* contended, that there was nothing in the state of Europe, and nothing in the affairs of this country, that went to justify a bill which he would call oppressive and tyrannical.

Lord *Calthorpe* said, that whilst he would be willing to support government in meeting every dangerous emergency, he could not agree to a measure which he did not think called for by circumstances, and which, to strangers, ignorant of the language and manners of the country, was peculiarly severe.

The House then divided: Contents, 17; Non-Contents, 7. The bill was then read a second time.

HOUSE OF COMMONS

Tuesday, July 18.

Court of Chancery.] Mr. *Calcraft* rose to make his promised motion relative to the disposal of brokerage paid for the stock transactions of the accountant-general of the court of Chancery. He observed, that the duties of the accountant-general were paid for not only by salary, but by a division of the brokerage (paid on stock transactions) with the broker usually employed by the court. Whether the sum thus received were great or small, he considered the practice an objectionable one. The accountant-general ought not to be remunerated in that mixed manner; he should be paid directly by salary.

He should now move for an account of the emoluments received from this participation in the brokerage, to the production of which he could conceive no earthly objection. He then moved for "an Account of the Commission and Fees received by the broker employed by the High Court of Chancery, and the proportion divided between the said broker and the accountant-general; distinguishing the amount divided during the last ten years."

Mr. *Courtenay* did not intend to make any opposition to a motion of this sort, which, so far as it could be complied with, was almost a motion of course; but he wished to show how utterly impossible it was to comply with the motion, in the terms in which it was now conceived. By the act of the 12th of George 1st, which created the office of accountant-general, that individual was directed to perform, from time to time, all those operations respecting the funds of the suitors of the court of Chancery that might be deemed necessary. It was unquestionably a part of his duty to make all sales that were directed to be made by the court; and it was obvious that, in the exercise of that duty, he was obliged to observe the strictest accuracy and attention. It was necessary that he should proceed with entire accuracy; for the least mistake might occasion the transfer or the payment of a considerable sum of money to a wrong person, by which great confusion would be created. These were the sort of duties that officer had to perform, and he received, in remuneration, a salary of 1,500*l.* a-year. From the outset of the existence of this office, the accountant-general, in the performance of those duties, had, of course, been obliged to employ the agency of a broker; and it had been the practice of all successive accountants-general to pay the broker, not the full commission, but a portion of it, the rate of commission being precisely the same as was ordinarily charged; which, as the House would see, was paid by the individual who had the benefit of the transaction. An arrangement was usually made, by which the accountant-general paid to the broker a certain portion, instead of the whole amount of brokerage. The present accountant-general had been only six or eight months in office; and he would, therefore, find it very difficult to obey an order of the House founded on this motion It was certainly in his power to state all sums paid to him, and to give an account of such transactions as he had been engaged in; and to that extent, doubtless, a proper return would be made. But the present motion called for a return of all commission and fees received by the accountant-general for the last ten years. To whom could such an order be directed? or who could make a return to it? He knew that there was no official record or document in the office that could give the information required; and it should be observed, that the broker was not an officer of the court or of the public. He submitted, therefore, that there would be very great difficulty in procuring a return to a motion of this description. It was true the person who now acted as broker had performed that duty for many years; but he doubted whether the House would call on him individually to make a return, since he was not an officer of the court or of the country. It would, however, be for the House to decide on that point. The hon. gentleman said the accountant-general ought to be paid entirely by salary. Certainly the accountant-general could have no objection to be so paid; but the question was, would it be wise to adopt that mode? What would be the effect of the alteration? It would be, that from some public fund this officer must be paid a remuneration nearly equivalent to that which for many years he had been in the habit of receiving as a fee. By whom, if the system were altered, must this equivalent be paid? By the public—a great proportion of whom had nothing to do with the duties performed by the accountant-general; while, as the salary was now paid, no person was burdened in any degree, except those who were benefitted by the transaction. Thus, if he had a large sum of money in chancery, which was laid out by the accountant-general to his advantage, he paid the ordinary brokerage charged on such transactions. Nothing, in his opinion, could be so little burdensome to the individual or the public as the mode at present adopted. He had no objection to the motion, as far as the accountant-general could answer for himself; but, beyond that, he could not conceive how information was to be acquired on the subject.

Mr. *Abercromby* thought there could be no difficulty in procuring the return called for. The present accountant-general could make a return as far as his experience went; and, as the same broker had been employed for many years past,

the accountant-general could find little difficulty in obtaining the preceding information from him. Whether it would be proper, hereafter, to pay the accountant-general entirely by way of salary, was a point for the consideration of the House. But he, in common with his learned friend, entertained great doubts as to the expediency of making the alteration. He was sure it was not intended, by bringing forward this motion, to cast the slightest imputation on the manner in which the duties of the office had been, or were at present, discharged. They were performed in a manner extremely serviceable and convenient to the public.

Mr. *Calcraft* said, he founded his motion on information contained in the report relative to the office connected with the court of Chancery, and not on any private feeling. If he could not get such a return as that which he had moved for, he must, of course, be satisfied with whatever return the court was able to make. He was restrained, by motives of delicacy, from bringing forward this motion during the life of the late accountant-general, and he thought it was rather hard, when motives of that description had operated on his mind, to be told, as an answer to his motion, that the present accountant-general had been only six months in office.

The motion was agreed to.

Barrack Agreement Bill.] On the motion for the third reading of this bill,

Mr. *Lockhart* said, on the first introduction of this bill into the House, he was inclined to consider it favourably. But, comparing the calculations of the hon. member for London with the statements of the right hon. gentleman, and considering the expense of building a wall, including eight acres of land, as injuriously and unnecessarily enhancing the cost, he could not give the measure his support, but must strenuously oppose it. He had, however, various other reasons for opposing this bill. In the present dense state of the population, when the activity of the public mind was increased through the medium of the press, and when the extension of education had opened inlets to general knowledge, and the pressure of taxation had created discontent, he thought it was absolutely necessary for the safety of the metropolis, that an armed force of some kind should be kept on foot. He did not, however, consider the army as the force to which they ought exclusively to look up for protection. When he found that this contract was for a period of 30 years, and after that when it was stated that the barracks would be held in perpetuity, he inferred that the system was to be perpetual, and that it was to be continued to the exclusion of all other systems. There were, however, other systems more constitutional in their nature, and more accordant with the rights and privileges of the people, than the keeping up of a large military force. When he spoke of the army, let him not be understood as wishing to underrate their merits: he held their character in the highest estimation, and he thought they deserved the gratitude of the country. They had received high honours and rewards, and he was sure, constituted as they now were, they would never raise their arms against the constitution; but when the army was composed of different men, as it must be long before the expiration of this contract, when it was formed of individuals who could only have a recollection of the glories that had been conferred on, and the victories that had been achieved by, their predecessors, would it not be a question whether such an army might not be dangerous to the monarchy and the liberties of the people? When the army was composed in this manner, it would be fit to employ another force for the defence of the metropolis. Armed bands of the inhabitants of cities and towns, comprising persons of honour, character, and property, ought then to be formed for the general protection. Though on many occasions he had approved of the use of a military force, he did not think that they should be employed in all cases: they ought not to be called in but upon urgent occasions, on the principle of *nisi dignus vindice nodus*. For what purpose were these eight acres of ground to be enclosed? It evidently must be for the purpose of concealing their exercises from the public. He was no friend to such seclusions, for he had always remarked that persons who thus lived apart from society were more irritable in their temper than others who enjoyed a free intercourse with their fellow-citizens. Those who were in favour of the employment of soldiers in the metropolis lost sight of the principle adopted in almost all other cases: there was not a republic or a city

abroad that had not its guard drawn from the inhabitants. He would not deal in the general invectives that had been levelled at the use of the military: he only objected to their exclusive employment. He would not, to show the danger of confiding too much in them, appeal to the experience of history; but he would call on the House to look to modern times, and they would see the destinies of one of the chief nations of Europe changed three times, either by the defection or active interference of the military. Kings could no more depend on them than the people: the whole of the recent revolution in Spain had been effected by the soldiery: and as the history of the past was the history of the future, they would do well to attend to it. Let not gentlemen suppose that the Moncks, La Fayettes, the Buonapartes, and Quirogas, of former days, were extinct in our own: they would see characters of the same description rise up again whenever circumstances of a similar nature occurred.

The House divided: Ayes, 80; Noes, 45. The bill was then read a third time and passed.

Committee on Foreign Trade.] Mr. *Wallace* brought up the report of the committee appointed to inquire into the state of our foreign trade. The hon. gentleman, in moving that the report be laid on the table, hoped the House would suffer him to make a few observations. He meant briefly to state the extent to which the committee had gone, and the objects to which they had chiefly directed their attention. Gentlemen would recollect that, in the former part of the session, many petitions were received from commercial districts, particularly one from a large and respectable body of merchants of the city of London, which had been presented by an hon. member (Mr. Baring), who usually sat on the other side of the House; and who, he was assured, would have been this day in his place, had he not been detained in the country by a very severe domestic calamity. Those petitions stated the general commercial distress which prevailed, without pointing out any immediate remedy for that distress. And, indeed, considering the state of our connexion with foreign countries, and the nature of the commercial system which had so long prevailed, it would be vain, he feared, to expect any immediate remedy. With respect to the soundness of the principle contained in those petitions—with respect to the necessity of throwing open the channels of trade as widely as possible—no doubt could be entertained. No person could deny that commerce ought to be rendered as free and unshackled as circumstances would allow; but he regretted that this principle could not, from various causes, be acted on to the extent which many individuals desired. The committee had not been able to enter so fully into the subject as they could have wished, in consequence of the late period of the session at which it was referred to them. They had, therefore, chiefly selected those points which appeared to them not the most important, but the most general in their application to this great principle—namely, that all restriction on trade, of whatsoever nature, was an evil, only to be justified by some great political expediency; and, where such expediency was not clear and manifest, that the restriction ought to be removed, as far as it could be done, consistently with the good faith of the country, pledged by treaties with foreign states, or by compacts with its own subjects, or with reference to the protection due to different branches of trade that might have grown up under the existing system, and which protection could not be suddenly withdrawn without great injustice. Gentlemen knew that what were usually called the Navigation Laws contained the regulations by which the commerce of this country was governed, both in respect to Europe and the rest of the world. With respect to Africa and America, all goods, the produce of those climes, must be brought here directly and exclusively in British ships. With respect to Europe, its commodities might be introduced either in British vessels or in the vessels of those states in which the article was produced, with the exception of Germany and the Netherlands—certain articles, the produce of those countries, not being allowed to be imported under any circumstances whatever. These restrictions did not, however, appear to the committee to be founded on any just principle of expediency or necessity. The sum, therefore, of their recommendation on this head was, that the Navigation Laws should be so far relaxed as to permit all articles to be imported from all parts of the world, provided such importation took place in British ships. The next point to which

they turned their attention was the warehousing system. That system was at present limited to the admission of certain articles. If, however, this country were meant to be the great emporium and the great mart of the world, it was impossible, if such were the view of the legislature, that too wide an extent could be given to the system of warehousing. Their recommendation on this second head was, that all goods, the produce of all countries, manufactured or unmanufactured, should be permitted to be freely imported and exported, except to our colonies, with as little inconvenience to the merchant as possible. There was, however, an exception of one article—he meant linen—which was so excepted from the general rule on account of a political rather than a commercial view of the subject. He would not now enter into the reasons that induced the committee to recommend those deviations from the existing system. When legislative measures, founded on the views of the question taken by the committee, were introduced, that would be the period to go into a minute detail, for the purpose of showing the reasons on which these recommendations are founded. One evil, which appeared to the committee to be of the greatest magnitude, and which required the serious attention of the House, was the extraordinary multiplication and complexity of the laws by which commerce was affected. Gentlemen would conceive the extent of this evil when he informed them, that he had seen it stated in a pamphlet published in 1815, that the number of laws relative to mercantile transactions amounted at that time to 1,500, of which 1,100 were in full and almost daily operation. To these, in the last five years, many additions had been made; and what the number was at present he could not take upon himself to say. When gentlemen considered that the slightest deviation from the law often subjected the ship and cargo to forfeiture, they would see the embarrassment which this evil created to the merchant, and the restraint under which it placed commercial enterprise. The committee were likewise of opinion, that the alterations which they had thought fit to suggest ought to be made gradually, with great caution, and a due regard to the interests which, having grown up under the present system, were placed under the protection of the good faith of the country. It would be perhaps some time before the benefits of those alterations would be perceived; but that was the price which the country was to pay for adhering so long to the present bad and defective system. The recommendations which the committee had suggested might appear to some individuals not to have gone far enough, nor to have embraced as many points as they had previously expected; but he would beg those gentlemen to consider that the recommendations which they had already made were of no slight or unimportant nature. The importance of them would be considerably enhanced, if hon. gentlemen would look upon them as the first and most material step of this country to a departure from the course of restrictive policy which its legislature had hitherto pursued, and to the establishment of a more enlarged and liberal policy towards foreign states than any which had yet prevailed. It had long been a reproach to us among foreign nations, that our mercantile system was so full of restrictions against them, that they were compelled, in self-defence, to impose similar restrictions against us. He trusted, however, that would be so no more, and if we should be still compelled to continue any of our present restrictions, either from the pressure of taxation, our compacts with foreign nations or with our own countrymen, or from any other cause whatsoever, it would be understood that we did so from a principle of justice—that it was a sacrifice to our sense of duty, that it was a matter not of option but necessity, and not caused by any ideas on our part of promoting our own commercial interests by it; and whatever might be the exclusion or restrictions which foreign states might think it expedient to put upon trade, they would no longer have the opportunity of justifying themselves by saying, "Such is the example, and such the conduct, of England." The hon. member then moved that this report be laid upon the table, and sat down amid considerable cheerings from both sides of the House.

Ordered to lie on the table.

SIR WILLIAM MANNERS.] Mr. *Tennyson* rose to offer an humble petition from an individual who had recently fallen under the displeasure of the House, and had for some days been suffering the punishment which it had inflicted upon him. The petitioner was sir William Manners. The House would recollect, that on the 5th

inst. it had ordered him to be taken into the custody of the serjeant at arms. On the 7th, that officer reported that sir William had quitted his residence in Leicestershire at six on the same evening on which the order was made; and on this report, the House after examining the messenger, thought fit to resolve that the petitioner had absconded in order to avoid being taken into custody pursuant to the order of the 5th instant. He (Mr. Tennyson) was not in the House when it came to this resolution, and he did not propose now to question or examine its propriety. It stood as a resolution of the House, and as such he should bow to its authority. But in consequence of this resolution, when on Monday se'nnight it appeared that sir William had surrendered himself to the serjeant at arms, the House ordered, that having so absconded, he should be committed to Newgate. Thus he had now lain a prisoner during eight days. He would have petitioned sooner, but feared that at an earlier period the House would not be disposed to listen to him, and he would not even now have presumed to approach it, if he had not understood that the House was about to separate for some time. He therefore threw himself upon that merciful indulgence which it had on similar occasions extended to others, and would now, he trusted, extend to him. The petitioner stated, that the moment he heard of the order, he came to London as expeditiously as his infirmities would permit, and surrendered himself into custody, giving notice to the Grantham Election committee that he was ready to give evidence if required, and the petitioner also expressed his extreme sorrow that he should have offended the House. He (Mr. Tennyson) deemed it right to inform the House, that after discharging his duty by moving that the petition should lie on the table, he should make no ulterior motion upon it, and would state his reasons. He understood, that when a person had been committed to Newgate for a breach of privilege, the precedented course was, that he should not be discharged without being first called to the bar and reprimanded. It therefore appeared to him, that in dealing with a case, such as the House had adjudged this to be, it might not deem it expedient to depart from that course, and in an ordinary case he should have felt that all he could have done for the petitioner, consistently with his duty to the House, would have been to move that sir W. Manners be brought to the bar at a future day, in order to be reprimanded and discharged; but he found the circumstances of this case were such, that he could not justify such a motion to himself or to the House. He was informed that the petitioner was in such a state of health in all respects, and his frame and powers so disordered, that it was more than probable that he could not support the shock of a reprimand delivered in the impressive manner in which they were accustomed to hear it from the chair without risking the most serious, lamentable, and immediate consequences to the petitioner. This, he believed, was known to several members of the House; and he understood that a medical gentleman was at hand to satisfy it on the subject, if it thought fit to pursue the inquiry. While, under these circumstances, he could not take upon himself the heavy responsibility of making the usual motion on this occasion [Hear!], yet he should not presume to invite the House to depart from its wonted course, not being aware how far it might be disposed to participate in his feelings, or indeed, inexperienced as he was, how far even if it did, it could or ought to act upon them If it could so act, he trusted it would be inclined to spare to this unhappy individual, prostrate as he now lay before the House, as well as to itself, a most painful exhibition; and instead of adopting the harsher alternative of leaving him, after preferring this humble petition, to languish in gaol for several months, when they were about to separate to their enjoyments in the country, some course would be devised by which the ends of mercy as well as of justice, and the end of maintaining the privileges, authority, and dignity of the House, might be equally and effectually answered.

The petition was then brought up and read. It stated, amongst other things, that the petitioner could not move from his bed or chair without the support of two or three persons, and that his health was still further endangered by his remaining in Newgate.

Mr. *Tennyson*, on moving that the petition should lie on the table, stated, that he had a certificate in his hand from the medical gentleman in attendance, which he would read, that the House might be apprised of what was to be expected from

his testimony. The hon. member then read the certificate, which corresponded with the evidence afterwards given.

The Marquis of *Titchfield* thought the House would desire to hear the evidence of the medical gentleman alluded to, and therefore moved that Mr. William Hutchinson Box, the surgeon of Newgate, be called in.

Mr. Box, surgeon of Newgate, was called in, and stated, that he had seen sir W. Manners this morning; that he was in a high state of mental irritation; that he had lost the use of his lower extremities, and of one of his arms, by a paralytic affection; and that he does not think he could be brought to the bar without great risk, on account of the general state of excitement and mental irritation under which he labours.

The Marquis of *Titchfield* thought that after what had been stated to the House, it would not hesitate to take the only course which occurred to him as proper to adopt. He deemed it unnecessary to trouble the House by enlarging upon the grounds which had been so fully urged, persuaded that the feelings they must have excited were in unison with his own. He should, therefore, move that sir W. Manners be discharged from Newgate on paying his fees.

After a short conversation, the motion was agreed to.

HOUSE OF LORDS.

Wednesday, June 19th.

City Petition.] Lord *Erskine* called the attention of the House to a petition from the corporation of London, observing, that he did not wish to give any opinion upon the subject matter of the petition; his opinions were to be known from his vote and conduct in parliament. The House had been in the habit of giving such a latitude to the receipt of petitions, that it became very difficult for any peer of parliament to say what petition, worded respectfully, they would not receive; and he would find it still more difficult to determine what might be the opinion of the House, when the petition tendered was not from any individual, but from the corporation of London. He did not, therefore, feel himself authorized to refuse, as a peer of parliament, to present this petition.

The petition was read, and lord Erskine moved that it do lie on the table.

The *Lord Chancellor* said, it was for their lordships to determine, after hearing the allegations in the petition, whether such a petition should lie upon the table.

The Earl of *Lauderdale* said, that the petitioners assumed to themselves to know that the bill of Pains and Penalties originated in the secret committee; now he, who was a member of that committee knew of no such thing. The bill of Pains and Penalties did not originate in the secret committee, that committee having no knowledge whatever of it, but was brought forward by his majesty's ministers upon their own responsibility.

The question was put that the petition do lie upon the table, and negatived.

The Earl of *Lauderdale* said, that according to the established practice of parliament another motion now became necessary, and he therefore moved that the petition be rejected.

The Duke of *Hamilton* urged the House not to go the length of rejecting the petition, as no greater objection could be made against it than might have been stated against many other petitions, which the House had received.

The *Lord Chancellor* said, that the city of London had no more right to interfere in the judicial proceedings of that House, than any other city or town. If they were to allow of such an interposition from one quarter, they must expect it from every other, and in that case, it would be infinitely better for the public that their lordships should altogether surrender their judicial functions.

Lord *Redesdale* thought the expressions used in the petition, with reference to the secret committee and the bill of Pains and Penalties sufficient cause for its rejection.

Lord *Holland* said, that the learned lord had almost convinced him, contrary to his previous opinion, that the petition ought not to be rejected, as if the House were to make a practice of appointing secret committees, he should think it perfectly proper that such a practice should be complained of on behalf of the people at the bar of the House; nor did he see any objection to the expressions used respecting the bill of Pains and Penalties. But there was one allegation in the petition, which was decisive with him that it could not be received, and that was, the assertion, that the whole of the evidence referred to the secret committee, consisted of the depositions taken before the

Milan commission. This was an assertion, which, if the petition were received, must be taken as a fact, but of which, nevertheless, he as a peer of parliament, had no knowledge whatever. Upon this ground, therefore, he felt that the petition could not be received.

The petition was then rejected.

MARRIAGE ACT AMENDMENT BILL.] On the motion for the recommitment of this bill,

Lord *Redesdale* observed, that the bill, as now altered, bore hardly any resemblance to what it was before, and he really thought it infinitely more objectionable than it was in its original state. The act already in force had provided that marriages contracted under certain circumstances should be null and void; but this bill would render them only voidable upon suit instituted. It proceeded altogether upon a new ground; namely, that the former act did not make such marriages void; and it enacted, that all such marriages should be good, notwithstanding any provisions of the existing law. It was, in effect, a total repeal of the former act. Even marriages celebrated in the Fleet, which was one description of marriages adverted to in that act, would be now made good and binding. Then again, by this bill neither party was to be at liberty to institute any suit, but parents and guardians alone. Those, therefore, who had neither parents nor guardians, must have their marriages rendered valid, whatever might have been the circumstances under which they took place. There was another clause, relative to the succession to dignities, which was at utter variance with its proviso. When this happened, according to lord Coke, the proviso must be regarded as foolish; but the enactment was altogether at variance with a solemn resolution of that House, as to succeeding to dignities. He would move as an amendment, that the bill be recommitted on this day six months.

The *Lord Chancellor* stated, that there was hardly one word of the bill, in its unamended state, to be found in the present. He wished, if possible, to avoid any objections to the recommitment; but, after what had taken place, he must entreat their lordships not to proceed further with so important a measure at this period of the session. He could assure the noble lord (Ellenborough), that he was so oppressed with the weight of other matters that he doubted his capacity to do justice to his own views upon this question. He thought, however, that very little would be sufficient to show how necessary it was for the House to take more time before they passed a measure of this description. He had not the least doubt that the learned persons who had patronized the bill, had a much higher degree of learning than he could pretend to in one department of the law; but he must say that the measure seemed to evince the utmost ignorance of the common law of the land. It had been indeed so altered from its original shape and texture, that it reminded him of a case put in some essay on identity—whether written by Locke or some other metaphysical writer, he knew not; but the question discussed was, whether a silk stocking, which had been darned with worsted till no silk remained, was the same stocking? This bill was altogether wrong in its principle: it set out, in fact, with supposing, that in every case which was to come under its provisions a suit was necessary; that a suit was either now pending, or about to be instituted; but this was a view of things which very few of those cases would warrant. It was, moreover, a monstrous principle of this bill which went to require that he who so instituted a suit should prove more than the ordinary forms of the law demanded of him. And what, he would ask, would be the benefit of this clause if it should be agreed to? None in the world. Marriages would be just as valid, so far as this clause could affect them, as if this new law had never been made. As to the precautionary views of the bill, the marriages it proposed to annul were equally null and void under the existing Marriage act. If it were the case of a marriage by licence, contrary (to use the words of the bill) "to the said recited act," it was void by the same Marriage act; if a marriage by bans, contrary to the said bill, it was valid under the former statute, and valid even upon the declaration of this bill itself. If the measure now before them did not amount to a total repeal of the old Marriage act, he knew not what did.—His lordship went on to animadvert upon the mischievous effects of a retrospective bill like this, whose operation did not go back to yesterday—nor to ten, nor twenty years ago, but to the year 1723. It made all marriages contracted since 1723 (however invalid they might have been in point of law, however illegal they might have

been in point of fact) good and valid ones, unless the parents and guardians of the parties (although it might very well happen that many of them had no parents nor guardians at all) should have interfered, and proceeded to prevent them. In short, it went back so far, that this was the consequence: the parents and guardians in question, as well as the husbands and wives themselves, had many of them, long since, been enclosed and recumbent within the urns and sepulchres of mortality. Yet every such marriage, however great had been the moral or legal objection to it, was to be considered valid. Then, as to the oath taken preparatory to the obtaining of the licence, he must be allowed to remark on this point, that the ecclesiastical authority or his surrogate, either had or had not the right of administering that oath. Now, if he had not the right, he must contend, that the serious prosecutions and penalties incident upon the commission of perjury by reason of false swearing ought not to be instituted. This bill, it appeared to him, went to take away the advantages of legitimacy from those who were legitimate issue, and to confer them upon the illegitimate. His lordship concluded by expressing his conviction, that it was a measure calculated to affect the whole mass of private property in this kingdom, both as to succession and possession; and upon these grounds it was, that striving rather to revise it than to defeat its primary object, he most humbly, most earnestly, and most solemnly, entreated their lordships gravely to consider the objects and nature of the bill, and to allow it to be brought forward in an amended shape at an early period of the ensuing session.

Lord *Ellenborough* regretted that his noble and learned friend who had just sat down, and for whose profound talents and knowledge of the law, displayed throughout the whole course of his long and useful life, he entertained the highest deference and respect, should have expressed himself so decidedly against the present frame of the bill, or should not have reserved the benefit of his important observations for the opportunity of a committee, in which they might have been heard with so much effect. While he lamented that that noble and learned lord would not allow the bill to go into a committee, he must say, that he was not less surprised at the course that had been taken by another noble and learned lord who had spoken first upon the subject. The noble lord then proceeded to defend the principle of the bill, expressing his regret that it should have been so unfortunate as to excite the lord chancellor's opposition after the many improvements and amendments which had been effected in it. He next adverted to several cases, for the purpose of showing the very serious evils and inconveniences of the existing law. Any one of their lordships, whose father and mother, or whose grandfather and grandmother, might perhaps have been married fifty-four years ago, was liable, by possibility, in one moment to be deprived of his fortune, and perhaps of his title, in consequence of the accidental omission of some minute form of law. The principle of this bill, so far as regarded the marriages of minors was this, that one moment of error, one moment of passion, should not be fatal and wholly irretrievable, as respected both the minor and the parent; but they should still have time to recover it. His lordship finally contended that it was hardly fair to argue against the principle of the measure by attacking the indirect wording of the clauses, rather than their spirit; and declared that he should reserve any further observations for the discussion which might occur in a committee.

The Earl of *Westmoreland* said:—The proposition is for the committal of the bill to amend the act of 26 Geo. 2nd. The objections that have been made have been generally to the provisions of the bill; it has been admitted that some remedy is required for the existing grievances, and it is proposed to recommit the bill to remove the objections to it, with the aid and assistance of the noble and learned lords, in the hope, by their great ability, some remedy may be found; but if unhappily after such consideration, that which is complained of cannot be amended, that the country must still suffer under such a system, at least we may have the satisfaction of having done our duty in the endeavour.—Before I proceed to consider the measure itself, I shall attempt to make some excuses for myself and the noble lord who proposed the reading of this bill for the very distressing situation in which we are placed in supporting a measure of a legal nature disapproved by the two learned lords, and stated to shake the property and the settlements of the country. The first protection under which I shall shelter myself is the authority of the

House of Commons. This bill has three times passed that House, and this year, as I know by the votes, without a dissentient voice. Whether a measure may be exactly right or correct is not my argument, but I cannot believe that the House of Commons would without dissent pass a bill that went to shake the property and settlements of the land. That House contains many most eminent lawyers, the two chief judges of ecclesiastical authority in the kingdom, neither of whom expressing a dissenting voice, and one chief judge (sir J. Nicholl) moving or supporting one of the amendments. Then there was the learned and eminent lawyer who introduced the measure, who would not have proposed one of a dangerous tendency, and to whom also this credit is due, that he must have been actuated by most disinterested conviction, as the proposition tends to diminish the suits in the courts in which he pleads. Under these authorities do I shelter myself. Next, this is talked of as a sudden proposition arising out of a few cases. As regards myself the opinions are not new; when I withdrew my bill about twelve years ago, I stated the growing evil, and begged for some remedy, the learned lord, the father of the noble lord who made this motion, admitted the necessity of some; and if at that time any provision had been made, the calamitous situation in which this subject now is, would have been avoided;—and now we are desired to wait again, and not to consider till another year.—Next, as to a few particular cases, I assert it is a general grievance daily increasing, and one which must in its necessary course, increase. I have endeavoured in some degree to ascertain the number of cases of marriages duly solemnized which have been nullified, but I have not been able to procure any accurate account, owing in some degree to the extent and number. I have a list of about twenty, all of marriages annulled upon slight informalities previous to solemnization. The noble lord produced six of the sort, of marriages annulled only in the last term. I would call your attention to the grounds of them; Lydyat and Homer—because the consent was given by the mother, a guardian by will, not by a guardian appointed by the court of Chancery. Priestley and Hughes—the daughter deprived of her fortune, her mother an illegitimate child having been married with the consent of her mother. Another, the father was missing for fifteen years, supposed dead; the mother gave consent to the licence, the father returned, the marriage voided. Another, a mistake of a few days in the family of the birth of the lady who supposed herself, as was supposed by the family, of age. Another the licence obtained with consent of the guardian, but the will appointing the guardian had only one witness, when it legally required two. The first four cases, the marriages dissolved after one hundred years cohabitation, that is averaging twenty-five years. Let us recollect that this bastardy would perhaps annul the marriages of all the descendants. The other, marriages generally on the ground of minority, the man having obtained the licence either by swearing himself or his intended wife of age, sometimes wilfully, sometimes ignorantly—the number nothing in comparison of the cases not produced, of families in alarm, as to what upon some specialty of this kind discovered after their death may be the fate of their children, and I believe there is not a professional man, who has not many clients consulting him in alarm upon this subject.

Having satisfied you, I trust, that this is no trifling or special but a mischief of a most alarming extent, and daily increasing, I shall proceed to another part of the question. The noble and learned lords have told us that this act would shake the foundation of property, and all the settlements of the kingdom—strong words; "vultus et verba minantum" from such authority. I have heard a noble friend of mine often say, that if you could but bear the first noise and smoke of an enemies battery, and examine its effects, you would not find them quite so terrible. Having, therefore, after this first discharge, recovered a little my senses, I began to consider what rights and property that bill could shake, and what settlements it could affect or destroy. In arguing this point, I beg to be understood, that this bill is to affirm all decided judgments, not to affect rights and property enjoyed under them. What are the rights this bill affects? the right of bringing an action to annul another man's marriage, which dying he had supposed good, or lives in the same belief, and by this law he has six months to bring that action, and if your lordships will go into a committee, may have any time they think fitting to propose.—Next, as to shaking the settlements, what settlements can it

affect? Has any man made a settlement to take effect upon annulling another man's marriage? I do not believe such a thing exists; and if it does, the man who made the settlement, or the heir under it has the benefit of the time to bring his action. But if this act will not affect the property or settlements, I contend that no property or settlement is safe under the existing laws. I stated the other day a case of a tenant for life. He shall marry with all formality, and have a numerous progeny, who shall, men and women, interchangeably marry with all the great families of the kingdom; he shall suffer a recovery when his son comes of age, mortgage part of his settled estate, and sell other parts of his estate. After all these transactions, thirty years after his marriage, one of these specialties shall come out; his wife shall have been a day too young, licence under a testamentary guardian instead of one by the Court of Chancery, some mistake in his own or his wife's mother's marriage, nay grandmother,—what is the effect upon him as an honest man, upon all the families thro' which the bastardy may run, I shall not attempt to describe; but suppose him a rogue, and what is his state? He takes back his sold estates from the purchasers, spends the money, laughs at the mortgagees, and, tired of his wife, solaces himself in the arms of a new one, and so defeats the expecting remainder man. Is this the state of the law? Will any body deny it? Why, a noble* and learned lord seemed to make a little hesitation which frightened me, but his very objection proved my case; for the only objection he seemed to take was; whether the mortgagee, during that gentleman's life could get his interest. That would depend upon the form of the mortgage, I think, whether he had a joint bond; but it was not denied, he must lose the principal; it is quite clear that neither purchaser nor mortgagee could have any lien on the estate against the remainder man.—Another case I will put:—A man obtains a licence by any of the pretences, and marries and gets possession of an estate of his wife, real, or even personal, which he sells; the marriage is null; suppose the wife dead or dies, what protection can the purchaser have against the heir at law? I presume to say that no counsel can assure a purchaser or mortgagee that there is a good title to any estate. He would say, "I have examined this title with the greatest accuracy; every thing appears perfectly regular; the family marriages and registers are properly attested; but it is out of my power to tell you that these marriages are good; some of the old ladies may have been at their marriages, a day too young; the marriages of their mothers may have had the same mistake; the guardian that gave the consent may have been appointed by a will with only one witness, or fifty other specialties, and therefore if you mean to have the estate you must take my opinion with this reserve." Then I contend, that instead of shaking property and settlements, this act is necessary to confirm them.

The next objection is, that this is an *ex-post-facto* law, a most improper term for it, but I must contend that no remedy that has not a retrospective effect is of any use; the evil is interwoven by the operation of 70 years, and every hour does and must add to the extent. The legislature has been so aware of the mischief, that they have passed four acts to confirm marriages (21st, 44th, 47th, and 48th, of the king), where they had been performed in places not covered by the act 26th George the 2nd, one for a parish at Walls End in Northumberland, where, during the repairing of the church, service of marriage had been performed in an adjoining building. And I want the learned lords to tell me whether the merged rights of others, and the rights of bringing actions, were not as much interrupted by those laws to which they gave their approbation as to this? I do not pretend to lessen the propriety of those laws, but I say the case was not so necessary for remedy as the present, because, particularly in Walls End, the time was short, the blot immediately known, and persons had an opportunity to endeavour to remedy it, which in many cases might have been done; but here the disease extends all over the kingdom; the sin, the mistake, extends to the farthest generations. No man knows whether he is safe, however confident he may be, till the blot is struck. What are all Indemnity acts that pass yearly to exempt men from penalties, and others from bringing actions? This objection surprises me most from a learned lord who had the honour of bringing in a bill for the relief of the Roman-Catholics from many of the penal laws. What were those laws? Why, the property went from a

Catholic, in certain cases, and his children, and went to the heir at law; the brother could strip the brother of his estate, and take possession. Did it ever enter the head of any one that it was an act of injustice, or an *ex post facto* law to deprive a man of a vested right, to repeal those severe laws, and deprive the heir at law of his action or right of dispossession? If you may repeal a law, you may surely amend it.

I shall now proceed to the consideration of the law and its effects. The 26th George the 2nd is an act to prevent Clandestine Marriages; and it is proper to consider what were the evils it was intended to check, and what the law at that time. It was the practice to make marriages secretly, suddenly, and clandestinely—children were decoyed from their parents—persons led to the marriage in a state of intoxication, and from scenes of riot and debauchery. To stop this evil the bill was passed; a very wise and necessary measure in its principle. Are these dissolved marriages clandestine? Can they be brought within the principle of that law? A marriage shall be solemnized with the greatest pomp and magnificence; the king shall honour it with his presence, and the archbishop of Canterbury shall perform the service. This marriage shall be dissolved as a clandestine marriage upon some specialties of many years before. Can any man suppose such a system of irreligion, cruelty, and absurdity! Should not the archbishop, when he performs the service, when he holds out the expectation of a progeny to be raised for their own honour and the service of their country, say to the victim; "Remember that which I here charge you to do, may perhaps be your greatest misfortune, and may deliver you to a life of sin and disgrace, and your children to beggary."

But has this cruelty and oppression the slightest effect in preventing that which it was meant to prevent? It is only a trap for innocence and the unwary, and an encouragement to plunder and immorality. If by going to Scotland or France you set the laws at defiance, you are safe. If you comply as far as your judgment enables you, you and all your generation are punished. Yet there is not one of these marriages that may not be confirmed in the highest rank for 40*l*., and in the lowest for a small fraction of the money. A licence once obtained, and the ceremony performed, let them only put themselves into a post-chaise and spend the happy week at Gretna Green, instead of Richmond, or in the lower rank go in the hoy to Leith or Calais, and in forty-eight hours the marriage will be as valid as if there had been no perjury, no mistake in your age or in the marriage of your grandmother. As soon as the parties are of age also they may marry by bans. It is therefore ignorance only that produces the mischief; the blot discovered, the case is easy till they have children—then that which was intended for a blessing, becomes a curse—they cannot then place themselves in a state of conformity to the religion of their country without injury to their children, and that is the state in which these persons exist, till perhaps the passions and debauchery of one avails himself of this cruel mistake; the deceived and unhappy wife is handed over to beggary and disgrace.

We have heard it said, that this bill was to tend to irreligion and immorality, and I wish to look at it in this view. Some years ago about six or eight divorces *á vinculo* by act of parliament were commenced in this House; every body, was alarmed, the morality of the country would be destroyed, something must be done to stop these numbers of divorces! I am a little unlucky upon that subject. We were then told we encouraged irreligion and immorality by supporting divorce as a punishment for sin; now, we are charged with encouraging immorality because we would prevent divorces for innocence; but if six or eight parliamentary divorces frightened from their number, what do you say to the number I have stated? what to, as was stated by the noble lord, six in the last term on this special ground? add to these the divorces in every consistory court, in every diocese in the kingdom—to those who, tired of one another, have parted without any suit at all,—the number is most frightful Perhaps one of the most frightful operations of the French Revolution was the facility of dissolving marriages, but they were hardly equal to the state of these laws. In closing this subject, I intreat you to consider the possible case of your own daughters, or that of your friends, and I add to the claims of mercy, religion, and morality, the insecurity of property itself.

The Earl of *Carnarvon* would not op-

pose the motion for the House going into a committee on this bill, because there were some parts of it which he thought would be productive of great advantage. He apprehended, however, that the bill attempted to embrace too much: it proposed a remedy for the past, with provisions for the future; it proposed to limit the power of guardians in preventing marriages, and it provided that marriages should be valid in cases where consent had not been given, but where it had been intended to be given. His strongest objection to it was, that it confounded *mala fide* marriages with *bona fide* marriages. The object of the second clause, and indeed the spirit of several other clauses of the bill, was, to convert marriages, that were *ipso facto* void, into marriages voidable by suit; and that was a principle to which he never could reconcile his mind. There were many other principles contained in the bill, which their lordships, with all the legal knowledge for which that House was so eminent, could not have time to consider in the present session; and therefore he thought the measure should be deferred till another session, when the subject might receive that attention which it deserved.

Lord *Erskine* said:—My lords: It appears to me that we are in the same situation now as when we consented to the principle of the bill by reading it a second time, and committing it; and that the motion of the noble and learned lord is to reverse that proceeding; and were it not that he had begun by stating that he intended to oppose the recommitment, I could not have collected such an intention from his speech, which consisted principally of objections to the framing of the amendment, all of which might be obviated in the committee, if suffered to proceed, so as to carry the bill, the principle of which had already been adopted by the House, into safe and clear execution.

He would preface the little he had to say by observing, that his noble friend (lord Ellenborough) was entitled to the thanks of the whole public for originating the support of the bill in this House, and for his ability and perseverance in removing every objection to its success. The Marriage act was a sudden and violent innovation on the ancient law of the country, and though professing only to prevent clandestine marriages and to protect infants from injudicious and dangerous contracts, had nevertheless, by the introduction of forms not at all necessary to fulfil that useful purpose, involved the most innocent and virtuous persons of both sexes in irretrievable ruin, without the aid of the law now proposed to relieve them, overturning marriages celebrated in the face of the church, with the consent of parents and guardians upon objections utterly unknown to the contracting parties, or to their relations consenting to the marriage.

The cases cited proved these evils in many disgraceful instances; and there were numbers besides occurring every day, which could not be contemplated without horror and disgust. Was it to be endured in a civilized country that a marriage, celebrated with the consent of a guardian, should, at a remoter period, be set aside, because the will appointing such guardian had been attested by one witness instead of two; and that, in another instance, though the consent of the mother had been given upon the presumption of her husband's death, who had been abroad many years, and unheard of, an affectionate and happy couple who had been long married, and were surrounded by a beloved and innocent family, should at a remote period be condemned to bastardy and loss of property by such a detestable statute, utterly unworthy of an enlightened and civilized nation? But why speak of a nation as civilized where such a law exists. If a traveller from Africa were to publish that this abomination was the law in the kingdom of Ashantee, he would be set down as a common liar, and nobody would read his book. It had been well observed by a noble earl opposite, that all these evils might have been remedied by a total evasion of this law by marriages in Scotland; but after a marriage celebrated in England, in confidence that all was secure by an observance of our Marriage act, it was too late for the legitimacy of the children to marry in Scotland again, as if the first marriage had been in that country.

It is painful to me, my lords, to differ in opinion on this occasion from my noble and learned friends; as in questions of property it is of great moment that there should be no difference of opinion amongst the law lords of the House; but I cannot possibly discover in what manner property will become insecure by the amendment that is proposed, as it appears

clearly to me that every insecurity would be removed by it.

In the present state of things, no man can say where property may rest. An erroneous entry in a Bible, as the noble earl opposite has well observed, may have been the foundation of a marriage, when only a single day was wanting for being of age; whereas, the present law if adopted leaves all fraudulent evasions of the statute as they stood before, and does not even set up the purest marriages, though void from accidents such as have been described, but gives to parents and guardians six months after the passing of the act to annul them, if contrary to law. If this time should be accounted too short a period, as not furnishing due notice in all cases, the committee in its discretion might enlarge it, and property could not possibly be shaken, because if persons are already in possession from an illegal marriage, though contracted innocently and in ignorance of any invasion of the statute, they are not to be disturbed by the bill before us; yet what are such possessions, when advantage is taken of such marriages, because innocently and unconsciously void? what but the possession of a thief or a highwayman, who ought to be hanged, instead of being protected? Why should not parliament interfere to prevent such enormities? It has been well observed by the noble earl opposite, that parliament, in the destruction of some of the Catholic incapacities, had gone further than is asked by this bill.

When it was, nevertheless, said, that it would shake all settlements, and destroy all the inheritances of the kingdom, he could not help calling to mind what had passed in the House of Commons. No man deserved to be more valued and respected than sir William Scott, and was by none more than himself—what he may have thought of the bill he knew not, but surely if he had considered it as destructive of all property, he would have been in his place to oppose it; but all the civilians,—and amongst the rest sir John Nichol,—supported it; that able judge came into the profession as a civilian about the same time that he did in the other courts. He knew his talents and learning, which had justly raised him to his high station in those courts that are familiar with these cases; he knew all their cruel consequences, yet he warmly supported this bill—certainly not believing that it would destroy all property, because some vultures hovering over even living bodies, might occasionally be disappointed of their infamous prey. The bill supported no clandestine marriages, made wilfully in evasion of the law, but only those which had been honestly made in ignorance of the facts that made them void. Lord Hardwicke, who passed the Marriage act, was a most able man, and a great judge; but he did not sufficiently contemplate the danger of making such a solemn contract, subject to such arbitrary provisions; and he was such an enthusiast in the advantages of his own statute as almost to forget himself as a judge when it came in question. Their lordships knew that there were very many marriages celebrated in the Fleet Prison before the Marriage act, which were perfectly legal, and the evidence of which ought not to be touched; yet one of these books having been offered in Chancery as proof of a marriage, lord Hardwicke not only rejected it, but tore the book, and stamped it under his feet. His late most excellent friend, lord Kenyon, whose memory he held in perpetual honour, told him that he knew this to be a fact; yet one of the same books he (lord Erskine) had produced at the assizes before Mr. Justice Heath, in support of the most important legitimacy of Mr. Passingham, and it was afterwards sustained by his noble friend on the woolsack, in a most just, able, and he trusted a final judgment on that important cause. In truth, my lords, whenever, to prevent frauds in any branch of the law, positive forms and ceremonies were enacted for the conveyances of property of any description (which forms must of course be inexorable, as rules of law), there ought in all of them to be left some jurisdiction in some other tribunal to modify them when they appeared clearly to have been overlooked from mistake or ignorance, and not omitted from fraudulent design. The want of such healing provisions had often produced the most mischievous consequences to the most innocent, and had created greater mischiefs than the forms prescribed by law were calculated to do good.

Lord *Calthorpe* said, he should support the bill, as the principle was triumphant over every thing that had been adduced against it.

The Earl of *Liverpool* denied that the House, because it had approved the principle of the bill, was bound to consent to

its re-committal. Upon a former day a majority of the House had approved of the second reading, and the bill had been committed. It had now come out of the committee—in what state? As a new bill. Every word of its contents had been altered; the bill which came out of the hands of the committee was as different from the bill which went in as one bill possibly could be from another; and yet he doubted whether the bill as it originally went in, or as it now came out, was the most objectionable. What, then, could their lordships hope from the re-committal of such a bill? He was as fully convinced as any man in that House, that a great alteration was necessary in the law of marriages. He felt the defects of the law as it stood: but the present bill was not the true mode of curing those defects. The bill contained principles contradictory of each other; and it had this radical fault—that it attempted to blend a prospective with a retrospective measure. Although he had a general dislike to *ex post facto* laws, he would not say that in no case could a retrospective measure be advantageous; but he did contend that such a measure could not properly be mixed with a prospective law. Let the House look to what ought to be the law upon the subject of marriage, and let them, by a process as simple as possible, make that the law. He thought that a prospective law was necessary to the happiness and to the morals of society; and, at all events, if we were to have a prospective measure, let that measure be taken separately. The bill had already been in the hands of one committee, and had failed; and he sincerely believed that no more satisfactory result could be expected from its recommittal.

Lord *Holland* said, that the noble earl would, as he understood him, prefer the introduction of two bills—one prospective, and one retrospective. Now, he would not deny that the one course would, probably, be as good as the other; but there was an old proverb, that a bird in the hand was worth two in the bush. If he could hope that the noble earl would follow up his argument by moving an instruction to the committee to divide the bill into two parts, he would offer no objection to the course which that noble earl had indicated. As far as he understood the practice of the House, the alterations which the bill had suffered in the first committee could form no objection to its recommittal; and surely no one who paid any respect to the existing act, 26 Geo. 2nd, could urge such an objection. The alterations of that act had been singular. First introduced into that House by the judges, nearly every word of it had been altered by lord Hardwicke; and, being then sent down to the Commons, it was returned with scarcely one word left of the alterations of lord Hardwicke. Lord Hardwicke, however, had acted like a man of sense; he had accepted the bill for the sake of the principle, and trusted to future amendments to adapt it to his own views. It was impossible for him to impress too strongly upon their lordships the importance of the present question. The necessity of alteration,—the disgraceful position of the existing law—was felt not only through the House, but through the country. The proposal now was, to recommit the bill; and he could have wished that the noble lord who had stood forward as the opponent of that proceeding had dealt so fairly and candidly with the House as to have stated clearly and intelligibly whether he was or was not favourable to the bill.

Lord *Redesdale* said, he had told the noble lord, from the first, that he was not favourable to the bill. When it was read a second time, he had said that to any retrospective clause he should be decidedly averse, and that he thought the only remedy for the inconveniences of the existing law would be to cause all marriages to be performed by bans.

Lord *Holland* could not see upon what principle the consideration of the subject in question was to be adjourned *sine die*, while it was acknowledged, that the continuance of the present system was highly injurious to the interests of the community. The House, as it appeared to him, could only defend itself from applying a remedy either by declaring that the evil was such as they had not power to remedy, or that there existed no evil which called for a remedy. If their lordships were satisfied with the present state of the marriage laws, let them refuse to re-commit the bill; but if they really had been affected by the heart-rending cases which had been laid before them; if they did really entertain a feeling of the propriety and of the necessity of a change; let them indicate and record that feeling by voting for the re-committal.

The House divided: Contents, 13;

Not-Contents, 25: Majority against the recommitment, 12.

HOUSE OF LORDS.

Thursday, July 20.

Irish Court of Chancery Bill.] The House being in a committee on the Irish Chancery bill,

Lord *Redesdale* rose to move an amendment in the clause which enacts that no master of chancery in Ireland shall be qualified, after the 1st of August next, to sit or vote as a member of the House of Commons. He did not mean to quarrel with the principle of this enactment, but they all knew under what circumstances this clause had been introduced. He should move, as an amendment on the words "is or shall be," to omit the words "is or."

The Earl of *Limerick* said, that the noble and learned lord did not attempt to controvert the principle on which the clause was founded, and it might therefore be fairly asked, why was it to be abandoned in the case of a learned gentleman (Mr. Ellis), in whose favour alone the amendment was suggested? It was remarkable that, in this case, the learned gentleman had disqualified himself, and, in an examination upon oath before the commissioners of inquiry, had represented that the duties imposed upon him by his office were numerous and important. It was also the custom in Ireland to associate masters in chancery with the court of delegates; and in truth they exercised a variety of functions, which, if attended to, would furnish active employment during ten months of the year. Now if the learned gentleman was desirous of signalizing himself in parliament, he had only to throw up the laborious office which he at present held. For his own part, he was much averse to the practice of law-officers engaging in pursuits of ambition in the other House of Parliament. This was too general in Ireland before the Union, and the consequence was, that high legal offices were too frequently the reward of subserviency and corruption. Fortunately, the system had been changed, and those offices were now filled by a set of men who were lawyers, and who were competent to discharge their duties with honour to themselves, and advantage to the country; but as often as judicial duties were mixed up with the pursuits of a politician, instances would occur in which the former would be neglected, and the latter attended to. He objected, therefore, to enlarging the sphere of this learned gentleman's action; and as to the observation that the clause would do injustice to his constituents, he could not see the hardship of leaving them the whole kingdom of Ireland to select from, with the exception of four masters in chancery; but, even though some hardship were to fall on the city of Dublin, the interests of five millions of people ought to be regarded as of paramount importance.

The Earl of *Enniskillen* thought it unfair to make any new parliamentary regulation of this kind apply to a gentleman who was already elected. He disliked all *ex post facto* laws, and this was evidently a law of that description. With regard to what had been said of the interests of five millions of people, he wished that, as the noble earl loved them so well, he would favour them with more of his company.

Lord *Holland* said, he had hardly ever met with a clause in any bill which so many reasons united to recommend. By the law, if not the custom, of parliament, masters in chancery were prohibited from sitting in either House, and a resolution to this effect had been passed in the reign of Charles 1st. In fact, still stronger reasons applied to the exclusion of Irish masters in chancery than to the exclusion of masters in chancery in this country. It might be somewhat irregular in him to notice it; but their lordships ought not to forget that, by leaving out this clause, they would risk the loss of the bill altogether. Some deference was due to the other House in a matter affecting its constitution and independence. It appeared to him that the gentleman in question could not be a good member of parliament, unless the people of Ireland were deprived of that diligent and effective discharge of his judicial functions for which he had hitherto been remarkable. The mode in which he came into parliament, by canvassing a great city, did not, he apprehended, accord well with the purity of the judicial character. It had been said that this was an *ex post facto* law: names had often a great effect, and particularly where there was a mixture of Latin in them. The noble earl who spoke last was against the admission of lawyers holding office; but then God forbid that he should have any thing to do with an *ex post facto* law. Now, it might be proper to remind the House how often they had

passed disqualifying acts which had this effect. The act which was passed in 1782, excluding contractors, and the act disabling excisemen to vote, passed at the same time (and the Whigs, whatever might be said of them, had done many of these things), contained a similar provision, and left to individuals the option of giving up their office or their right. So again, with the laws for excluding Roman Catholics: they did not allow the Catholics who had already sat and voted in parliament to retain their seats, but at once imposed oaths contrary to their faith, and which necessarily led to their exclusion. The amendment seemed to him to be inconsistent; there were only two principles on which the persons in question could be disqualified; the one affecting the administration of justice, and the other the independence and purity of parliament. Both these were as much affected by the present case as they could be by any case that might occur hereafter. If, indeed, the clause enacted that a penalty should be imposed on masters of chancery, and payment of it was demanded from those who had already sat and voted, that would be what he should call an *ex post facto* law. The clause came recommended to them by high authority, and, what was whimsical enough, by that of the learned gentleman himself.

The Earl of *Liverpool* wished to state the grounds upon which he should give his support to the amendment. He should not enter into the question whether this was, technically speaking, an *ex post facto* law; but the clause appeared to him manifestly unjust, and their lordships had to consider whether there existed such a state necessity as would induce them to commit this injustice. If it were true that it was against the law of parliament for masters in chancery to sit in the other House, the other candidate for the city of dublin might obtain his remedy in the usual course. One thing was certain—that masters in chancery had been accustomed to sit in parliament for the last 200 years; theirs, therefore, was an unquestionable right; and, if their lordships were disposed to take it away, let them at least do so either legislatively or judicially, but not in the manner proposed. He put it, however, to their lordships candour, whether, applying this law prospectively to future cases, they would make it reach also any body of men, or an individual under the peculiar circumstances of the one who had been so often alluded to, and who not only might have been ignorant that the law was applicable to them, but might have even supposed that its operation was just the reverse. Such a measure, he contended, could only be justified by a great case of state expediency or necessity; and, even then, they ought to be exceedingly cautious how they enacted it. He would undertake to say, that the many eminent men, holding the situations of masters in chancery, who had had seats in the other House, were as valuable members as ever sat in it. There was one additional consideration, which he was sure would demonstrate to their lordships the great injustice of this clause: he understood that the individual referred to had purchased his office under the act of parliament [Hear!]. It was not an illegal purchase, their lordships would observe; for he was allowed by the act to purchase, though he could not alienate the office: were they, then, going to deprive this individual of such an office, having certain legal prerogatives attached to it?

The Earl of *Enniskillen* observed, that the gentleman alluded to was specially excepted by name, from the operation of the bill in the other House.

The Earl of *Lauderdale* agreed that a very strong case of necessity should be made out; but as to the person's buying the office, that could make no difference in the determination of their lordships. It was pretty certain that the individual would never have bought the office unless he felt himself tolerably sure that he was capable of filling it; and he would try that question by the evidence of the gentleman himself. He had said that the business of an Irish master in Chancery would detain him in Dublin for ten months in every year. There was no difficulty, therefore, in supposing that, at the time of the purchase, he was aware of the duties, and thought himself qualified to perform them. Why was it now a hardship, then, that he should be required to yield the situation, seeing that, upon his own showing, the performance of its duties, and his attendance in England as a member of parliament, were incompatible and impossible? But it might be asked, why had not parliament made some legislative provision for this state of things before? To this the answer was, that parliament had never dreamt of the possibility of its happening, and never could have supposed that one man could discharge the duties of both situations.

Lord *Holland* begged to observe, in explanation, that he had never said that a person's judicial integrity might be affected by his sitting in parliament; but he would say this—that the mode of getting returned for populous places was not that which was advantageous for the preservation, at any rate, of an appearance of judicial purity.

The *Lord Chancellor* was almost afraid to trouble their lordships upon this subject; because, for whatever he might say on behalf of legal integrity and merit, their lordships perhaps would not, standing in the way he did before them, give him credit. But this he would say, that the descendants of those who had held high judicial situations in the country and whose posterity had seats in that House, had greatly distinguished themselves in their debates by a display of talents and eloquence which did honour both to parliament and themselves. He was not less sanguine of the future merits of the posterity those unfortunate individuals might leave who were the subjects of the present bill [A laugh]. He had had occasion, more than once since he had held the office of lord-chancellor, to express a wish that those masters whom he had appointed should not sit in parliament. But what would be the effects of such a clause as this? It would apply, upon the principle of incompatibility which had been so much relied on, not merely to the case of masters in Chancery, but, by virtue of it, they must turn out of the House of Commons his majesty's attorney and solicitor-general, all the king's sergeants, and a variety of others. It was really strange that he had never heard of this inconvenience, even from his noble and learned friends opposite, until the result of a particular election had been foreseen. Upon the point of incompatibility of duties, he would instance a very striking case, which might go the length of proving the fallaciousness of the argument—he meant that of one who had been a member of the other House, and an attendant upon this House, and would have been an ornament to any—sir Samuel Romilly. Every one knew the great variety of his professional avocations, and yet he was returned as representative for one of the most populous cities of the empire. But the same principle would go farther; for it would exclude from the House of Commons officers in the navy and army. His lordship concluded by protesting against the clause.

Lord *Kenyon* said, he should oppose the clause.

The committee divided upon lord Redesdale's amendment; Contents, 22; Not-Contents, 10.

HOUSE OF LORDS.

Monday, July 24.

PETITION FROM THE QUEEN.] Lord *Erskine* said;—My Lords; I have just received from Dr. Lushington, who has leave from the House of Commons to appear at the bar of this House as one of the counsel for the queen, a petition from her majesty, which I have been requested to present, and which I do most willingly, because it contains a just and reasonable request. I will read it to your lordships myself before I ask you to accept it. "The Queen laments, my lords, that this House has deemed it proper to refuse her application for a list of witnesses to be examined in support of the bill of Degradation and Dissolution of Marriage, thus leaving her majesty and her legal advisers in total ignorance of the times and places to which the charges may relate, or the persons by whose testimony the allegations on the bill are intended to be supported." This is only preface; she does not call upon your lordships to reconsider this decision, but contents herself with lamenting it, and comes with a new request. This is just my own situation—I exercised my privilege as a peer, and did, as I thought and still think, a duty to my country, by asking your lordships a few days ago to give the list of witnesses as requested; but your lordships having refused it, I must not now put my individual opinion against the judgment of the House; but I have a right to express that I most deeply lament it. Her majesty then goes on to ask that a specification of the places in which the criminal acts are charged to have been committed, be forthwith delivered; for if this be denied, it will be impossible to be prepared to meet the accusation, &c.

"CAROLINE *R*.—The Queen laments that the House of Lords have deemed it proper to refuse her application for a list of the witnesses to be examined in support of the bill of Degradation and Dissolution of Marriage, thus leaving her majesty and her legal advisers in total ignorance as to the time or place to which the charges may relate, or the persons by whose testimony the allegations in the bill

are intended to be supported. Her majesty now submits to the House of Lords, that a specification of the place or places in which the criminal acts are charged to have been committed should forthwith be furnished to her majesty's attorney-general, for if this be denied, it will be impossible to be prepared to meet the accusation, or to take preliminary measures for providing defensive evidence against the charges without bringing from every place her majesty has visited during the last six years every witness who had any means of observing her majesty's conduct. Her majesty further desires to be heard by her counsel and agent at your lordships' bar, in support of this her request."

This last part of the petition I hope you will only not grant, by yielding to the request of your own free grace. My lords, if you refuse it, believe me, the House will suffer indelibly in its character and honour, which has stood so high for ages, and enabled it to support in public opinion all the other tribunals of justice. As her majesty asks only a specification of the places to which the evidence is to apply against her, we have no concern now with the indulgences of the statute of treason, nothing more being asked than the universal analogies of law. No crime whatsoever can be charged without specifying the place where committed, and the acts charged are almost universally facts of so limited and so notorious a character, that the accused has an immediate and satisfactory acquaintance with the evidence that is to be produced; but the allegations of the bill before us are spread over the space of six years, in places remotely distant from each other, so that without the specification of the places, it is utterly impossible that any kind of defence can be made. The only answer that has been given to this objection is, that when the accusing testimony has been heard, the House would consent to a long adjournment, till the witnesses for her majesty should be collected; but I reminded your lordships, when I moved for the list of the witnesses, that this would be only an insulting mockery of justice. What, my lords, do you mean by accusing evidence, when no clue is furnished for their examinations by the accused? How can she impeach their testimony, when she is an utter stranger to their very existence, till she sees and hears them in the House? and thus unimpeached testimony, however utterly unfounded, goes forth from one end of the island to the other, affects the minds of the people, and comes back again upon your lordships yourselves to affect your own judgments before you enter upon the defence. What right, my lords, have you to consider yourselves as superior to the infirmities of human nature, which are the foundations of all the wise and humane provisions of our law? Are you honester or better than juries, who are not suffered to communicate even with their own families until their verdict is delivered? Are you alone to be trusted, and to go forth into the very court of the king, who is the injured and properly accusing party in the cause? I do not seek to reconcile differences between the House of Lords and the other tribunals, where the anomaly of your jurisdiction can be averted; but you had only to listen to the petitions presented to you, and the anomaly would have been ended. Had the queen been granted the list of the witnesses formerly asked, and the places of supposed guilt, as now requested, the case might have proceeded like any other trial, but by refusing both, your proceeding is like none that ever existed upon earth. My lords, I have no leaning or bias in the case before us, except that which has been the uniform bias of a long life spent in the administration of justice, and which will never cease, I hope, till death. I cannot be mistaken in the principles of law, and their analogies are too manifest to be mistaken; I therefore move that the petition be received.

The *Lord Chancellor* said, that the motion was, he confessed, one which he did not expect. It called on their lordships to allow her majesty to stand in a different situation from that in which she had necessarily been placed by the course of these proceedings, and in which, consistently with the ordinary administration of justice, she must continue. He should have been extremely glad if the learned lord, instead of dealing in general assertion, would have shown in what instance, during the course of his professional life, he recollected an application of this nature to have been made. Their lordships, by their resolution refusing to grant a list of the witnesses, had shown what they considered to be the general principle; and if he knew any thing of the law of parliament, the usage of parliament declared what that law was. Their lordships had

refused to accede to the former motion; and in doing so he thought they were justified by the whole history of parliamentary proceedings. How did the law of parliament stand with reference to that law which his learned friend had so long assisted in administering? Would that law allow a statement of places, of times, and circumstances, to be granted to the accused party? After both Houses of parliament had gone the length of refusing a list of witnesses to an accused individual, did parliament afterwards declare on that occasion, that times, and places, and circumstances, should be specified? Parliament had done no such thing. The common law required that in the indictment for high treason a place should be named, because that was necessary to give jurisdiction to the court; but that statement was not made in a very minute manner: the indictment set forth, that at such and such times, both before and after the day mentioned, and at such and such places, the act of treason was committed. But it was quite a novelty to require an indictment to state all the other acts, and the places where they had occurred. The issue was, that before and after such a time treason was committed: this was recited in the different counts, and the offence was laid in any country which it might be deemed necessary to introduce into the indictment. It was far more general than his learned friend seemed to suppose. The indictment merely stated, that in such and such a place, and that at such and such a time, such and such treasonable acts were committed; but it never pointed out the times and places more particularly than he now alleged. He wished to know what was the analogy between the common law of this country and a proceeding before parliament; and if his learned friend could not explain it, he begged him to point out a single instance in which, in a proceeding like the present, their lordships had gone to the length to which they were now requested to go. When his learned friend called for this specification, it appeared to him that his reasoning was palpably wrong, unsupported by any principle, and unsanctioned by any precedent. In consequence of the course taken by his learned friend, who had appealed personally to him, he was bound honestly and fairly to state his views of the question, and no motives whatsoever should deter him from so doing; and it was only because he wished their lordships to persevere in the old course of administering justice that he had felt it necessary to trouble them.

Lord *Holland* said, he could not contend with the learned lord who had just spoken on legal subjects, but he thought that some of his positions were highly objectionable. The learned lord said, that the course now pursued accorded with all the analogies of common law, under which no such indulgence would be granted; and that, according to the ordinary course of parliamentary proceedings in that House, it must also be refused. But the learned lord would allow him to remark, that in the course of his speech he did not state that the bill of Pains and Penalties on their lordships' table was, in its shape, frame, or circumstances, by any means so precise as an indictment; and therefore, when the learned lord said that no such application was made in cases of indictment, he would answer that no such application was necessary, because the indictment on the face of it stated many circumstances that were not to be found in the bill before their lordships. In the instance of high treason, it was impossible to put into an indictment for that crime that which was contained in this bill: it was impossible to spread it over a period of six years. The learned lord knew very well that a treason committed three years ago, and left unquestioned for that time, was no longer treason in law, and could not be made the subject of an accusation. With respect to proceedings in parliament, the learned lord would find it extremely difficult to quote any thing like the present. Their lordships had had bills of pains and penalties before them; but when the learned lord stated this, did he, or could he, point out any bill in that House, in the course of which the person accused had not, either *de facto* or *de jure*, a clear specification of what was alleged against him in that bill? When the noble lord spoke of parliamentary proceedings in bills of pains and penalties, and attainders, and when he alluded to cases of impeachment, he would ask him, could he find, since the Revolution, any articles of impeachment drawn up so widely and loosely as this bill? The learned lord had formerly said that he dismissed from the consideration of the House, and from his own breast (and the declaration was highly honourable to him), all bills of pains and penalties, except those that had occurred since the period of the Revolution. Now, if that were the case, he wished the learned

lord to lay his finger on that bill of pains and penalties, since the Revolution, in which he would not find a greater specification of times and places than was contained in this bill. Indeed, he would go farther, and say, that a luminous specification of both was to be found in those bills. The only bill of pains and penalties that bore the slightest analogy to the present was that which concerned bishop Atterbury and two other persons. Now, he knew from the preamble of this bill, that, previously to its being laid on their lordships' table, a long and voluminous report had been made by a secret committee, which contained not merely the matter of charge, and of every thing connected with it, but comprised the whole narrative of the proceedings which had been discovered; and the persons standing accused were fully apprized of the nature of the accusation. They did not, indeed, receive the report itself; but the bill certainly did contain a specification of the charges much longer, more precise, and more complete, than that which was comprised in this bill. He did not mean to consider this case with reference to the individual, but with regard to the character and consistency of their lordships' House, and therefore he was desirous that it should be clearly understood in what the inconvenience of giving a plain specification of time and place consisted. For aught he knew, it would not be more advantageous to the person accused to have the places and times specified, than to have a proper period granted for entering on the defence, when the case on one side was closed. That, however, was not the question on which the House had then to decide; it was for them to proceed on those principles of constitutional and substantial justice—leaving out of their consideration questions of law, which did not apply to so anomalous a case—and to adopt those means only which appeared to be the best calculated to discover the truth. They were not to consider whether any particular proceeding would be advantageous to this party or to that, but whether it was fit and wise and proper for their lordships to adopt. Therefore, as their lordships would not deliver in a list of witnesses, it was for them to decide whether it would be more applicable to the attainment of substantial justice to refuse the present request, and to admit a great delay between the close of the accusation and the commencement of the defence. They ought not, he conceived, to adhere too strictly to forms, for he was convinced it would be more consistent with their dignity, and more in accordance with the ends of substantial justice at this time, to look attentively at the easiest mode by which that justice could be administered. It was on this ground that he, for one, was inclined to hear arguments stated at their lordships' bar, on the subject of this petition; and afterwards it might be decided with more propriety whether a clearer specification of time and place should be allowed than was now inserted in the bill. The proceedings of their lordships, and the mode which they had thought proper previously to adopt, were fraught with inconvenience. Suppose a majority of their lordships voted for a clear specification of time and place, to whom were they to go for the necessary information? Were they to apply to the secret committee? He did not know whether they had any thing whatsoever to do with the bill: having made their report, their office was, he believed, at an end. Their lordships, who were members of that committee, had not, of course, divulged any part of that which was communicated to them. He believed the resolution of the House had been stated to his majesty's attorney-general; but he did not understand that any part of the charge, except what the bill contained, had been communicated to that learned gentleman. When, therefore, the attorney-general appeared at their lordships' bar, to open the case, he should be glad to know from whence was the specification of charges which he was to lay before their lordships to proceed? From whence was the statement of those charges to come? If they were to be regulated by precedents, he found that their lordships, in the case which he had before mentioned, did give notice of the sources from whence the information was to be derived; and he understood from the Journals of the House of Commons, that a similar communication was made to the attorney-general at the bar of that House, where the proceedings originated. But here the whole of the specification of charges was suspended, as it were, in air, so that neither the accused nor the prosecuting party was acquainted with it. He thought, whatever they might do with the present petition, it was necessary for the consistency of that House to understand from whom a specification of the offences imputed, and

a list of the witnesses, were to be derived, when the matter came to be opened at their bar. With respect to the request contained in the petition, it appeared to him to be most convenient and conducive to the ends of justice that the queen should be furnished with the specification required. This, he conceived, would be better than to have an application in the midst of a process of this nature for a long delay. As far as he had been able to understand the subject, it was impossible that the queen could be preparing for her defence at present, because it was impossible for her to know where she was to look for her witnesses. There was one part of the question which certainly was of minor importance, which was indeed insignificant, when compared with other subjects which naturally grew out of it; but undoubtedly, if the specification were refused to her majesty, it would be the means of putting the country to an enormous and almost indefinite expense; for, unless she knew the specific places in which the charges had been made against her, she would be obliged to place at their lordships bar a motley assemblage of witnesses, drawn from every quarter of the world that she had visited during the last six years. This was a point of convenience; and as it referred both to the accused party and the country, he trusted it would not be lost sight of. As to the substantial justice of the case, he was sure no leaning to the one side or the other would affect their lordships' judgment; but in point of consistency, convenience, and analogy, he thought it would be much better to furnish the person accused with a clear specification, such as the petition called for, than at a future time to grant a long period to enable her to prepare for her defence.

The Earl of *Liverpool* concurred with the noble lord in thinking that no correct analogy could be drawn between the present measure and the proceedings of courts below. Neither was this measure similar to any former case in which a bill of pains and penalties had been passed. The bill had been introduced in consequence of the report of a secret committee; but he had introduced it, not as a member of that committee, but as a member of the executive government. Upon that the queen had petitioned their lordships to proceed forthwith with the investigation. This petition had been considered, and the House had decided, that, in the administration of substantial justice, the queen's call might be answered to a certain extent without any practical inconvenience. Their lordships had considered that the presence of some of the learned judges was indispensable on this occasion. The 17th of August was therefore fixed upon as the earliest day on which the attendance of the judges could be obtained, and the inquiry could proceed with a reference to the ends of justice. If they had complied with the queen's petition to the full extent of its prayer, how could the present application to have been made? Her majesty, in that case, could not possibly have required the indulgence which was now sought for. The noble lord had complained that this accusation differed from all others, inasmuch as it had less of particularity in it. He apprehended, however, that the charge stated in the bill was as specific as the nature of the subject would allow. That charge was not of any single or positive act of adultery; but of a long series of adulterous intercourse during the period mentioned in the preamble. The noble lord also contended, that the charge being one of bad generality, there was the greater necessity for showing the utmost indulgence towards the accused; so he (lord L.) said also. Then the question recurred, how was that indulgence to be exercised? He begged to remind their lordships that in ordinary cases an accused party had no such advantage as was extended in this case, and which consisted of an interval between the accusation and the defence. A greater advantage than this it was difficult to conceive; and the disadvantages, therefore (if any there were), under which the queen might labour, ought to be viewed in comparison with the peculiar advantages which she enjoyed. In criminal cases, according to the practice of the ordinary courts of judicature, it was but recently that juries were allowed to separate. No doubt, there was a degree of evil following the separation of their lordships; but it was an evil which could not be remedied. It arose from the nature of their proceedings. The circumstances and forms attending these proceedings, when of a judicial character, were entirely different from those in courts below. Their lordships must adjourn from day to day, perhaps for the period of a week, which could not be done in the trial of a criminal case before other tribunals. They had even known cases

in which the charge was made in one session of parliament, and the defence in another. As respected the real merits of the case, he did not believe that the ends of justice would be delayed, or that justice itself would suffer. The whole question, on this occasion, appeared to him, whether the peculiar advantages and disadvantages did not counterbalance each other? If the queen, in her former petition, had made out a fair case why a list of witnesses should be furnished—and he must be a blundering counsel, who, having strong merits to stand upon, had not made out a fair case—their lordships would undoubtedly have been induced to grant it. The fact was, that in many divorce bills there was no specification of the time or place at which the act of adultery had been committed. To this he was aware it might be replied that, before any divorce bill could pass, it was necessary that a suit should have been instituted in Doctors' Commons, and that an action for damages should have been brought. But if the proof was not deemed sufficient by their lordships, even though it had satisfied the other courts (of which there had been instances), it was competent to a party to prove other adulterous acts than those of which he had previously offered evidence. He believed there was a case, as recent as in April last, in which this had actually occurred. Looking, therefore, at the whole matter—considering that her majesty had desired them, in her former petition, to proceed forthwith; recollecting that they had been told by a learned gentleman at the bar (in perhaps a legal speech), that he well knew all the contents of the green bag; he could not conceive that any solid reason had been advanced for complying with the prayer of this petition. God forbid that any consideration of inconvenience should interfere with the attainment of substantial justice: he was himself most desirous that every fair and reasonable advantage should be yielded; and if any doubt existed, that it should be solved on the side of indulgence. Looking, however, at the whole question he did not think that the House was bound to acquiesce in the new demand which was made upon that indulgence.

Lord *King* was of opinion, that if substantial justice was the object which the House had to keep in its contemplation, its ends might possibly be disappointed by refusing this application. It was said that sufficient time would be allowed after the accusation was complete; but he need hardly remind their lordships that in every common case there were two preliminary trials. As the illustrious person accused was deprived of that advantage, they were bound to afford her more than ordinary facilities for the establishment of her defence. They were bound not only to administer impartial justice, but to maintain the appearance of administering it. By refusing what seemed to him to be her fair and reasonable demand, they would add to the general feeling, that the queen was unjustly dealt with. Bills of this kind, whether of attainder or of pains and penalties, were, with great propriety, objects of dislike; and he feared that this proceeding would be regarded as another instance of that injustice which was commonly attributed to them.

Earl *Bathurst* declared his perfect readiness to meet every reasonable application; but if the time and place were to be specified at which adultery was charged, the inquiry before their lordships must be of a very limited description. Suppose evidence to be given of a material character, but not corresponding to the alleged time and place, would their lordships think it right to strike out such evidence? This was not even done in other proceedings of divorce; and with regard to what had been said about the queen's conduct at Milan, that referred only to a single place, and to a particular period of the time to which the whole charge referred. The 17th August had been fixed to the supposed satisfaction of all parties; their lordships had not deemed it right to furnish a list of the witnesses, and they were now desired to inform the queen of the places at which the alleged improprieties had occurred. If her majesty meant to defend her case on the 17th August, this application was perfectly absurd; because she could make no use of the indulgence by a period so early. If the prayer of the petition were good for any thing, it ought to be accompanied by an objection to so early a commencement of the proceedings.

Lord *Erskine*:—My lords, as I have no motion now to make, but that her majesty's counsel be called in, I should not have troubled you with any further observations, except that I feel myself bound to answer the questions of my noble and learned friend on the woolsack, which I

answer thus:—In every indictment the place must be mentioned, and the precise nature and quality of the offence, and as the offence is not only within the realm but in some very limited local jurisdiction, no doubt can remain as to where committed, or how to be proved. Whereas here it is a series of conduct for six years, instead of a single act, and in countries widely distant. The noble earl opposite truly says, that it is not the mere fact of adultery, but indecent and suspicious demeanor in various places; but does not that render it more necessary to collect witnesses to prove what her general conduct has been, for how else can a behaviour of six years be supported, if unknown witnesses can pounce upon her in the absence of those who might contradict them? The noble earl, who always speaks with great ability and skill, also says, that even in the ecclesiastical courts, in suits for a divorce, different evidence may be given at the bar here, than had appeared either in Doctors' Commons, or against the adulterer in the courts. A new case, he says, might be made here. To that I can only reply, by asking if the noble lord can instance any such case? I am sure he cannot. If the evidence against the adulterer were not sufficient, nor that in the Commons, did any one ever hear of a bill to divorce upon evidence never given before? I am confident that no such case ever happened, or ever will. A noble earl who spoke last, for whom I am sure I entertain a great personal respect, has endeavoured to show, that granting the request of her majesty would be of no use to her; but are we to judge of that and refuse her the option of judging for herself? The noble earl ought to have shown that the granting her request would disappoint the justice of the case, she is called upon to answer. Show me this, my lords, and I am silent. Has this been attempted either to-night, or when the list of the witnesses was refused? or has it been shown, that the evidence for the bill ought to prevail, if she is denied the opportunity of their cross-examination? When the evidence for the bill is finished, and the queen, after an adjournment, has collected her witnesses, can their original examination be resumed? Such a thing was never heard of; in short, my lords, our proceedings have created a great sensation throughout the whole country, which your lordships will have hereafter to lament. I have now only to move, that her majesty's counsel be called to the bar in support of her petition.

The House divided: For the motion, 12; Against it, 37: Majority, 25.

HOUSE OF COMMONS.

Monday, July 24.

COMPLAINT OF A LIBEL UPON THE QUEEN.] Mr. *Wetherell* rose to call the attention of the House to a paragraph in "Flindell's Western Luminary," reflecting severely on the conduct and character of her majesty. He thought it his duty to take this step, because it was impossible for the House to pretend to be ignorant of the nature of the bill which had recently been introduced in another place, or of the severe punishment which, if it were passed into law, it would inflict upon her majesty. The paragraph to which he alluded was one of the most gross attempts he had ever witnessed to pervert the course of justice, as it declared, in the most offensive terms, that the queen was actually guilty of the charges which had been preferred against her. It was true that the proceeding pending elsewhere was not in strictness a judicial proceeding; but it could not be denied that it was an act of one branch of the legislature connected with a most solemn and extraordinary judicial inquiry. Being such, it might also be brought before them, and therefore the House was, as far as regarded it, to all intents and purposes a court of law. Now, if a paragraph had appeared in any publication, reflecting upon the lowest and most subordinate subject in the realm, in the same manner that this shameless paragraph did reflect upon the most exalted subject in it, the lower courts would deem it their duty, supposing that the honour and character of the individual thus assailed were to be on trial before them, to punish the author of such paragraph for wickedly, attempting to bias the minds of the jury, and to destroy the freedom and impartiality of justice. Would, then, that House, acting as the high court of parliament, fail to exercise those judicial duties which its situation entailed upon it, and which every other court would feel itself imperiously called upon to exercise under similar circumstances? Would they allow those insinuations, which would be severely punished if made against the meanest individual in the country whilst

under trial, to remain unnoticed when uttered against the highest? If they did, they would not be acting with that even-handed justice which it became them to observe upon this occasion. It was impossible for him to put the motion which he intended to make upon this subject into proper form by to-morrow; but he trusted that the House would not suffer this attack upon her majesty, which he conceived to be equally an attack upon the privileges of parliament, to pass without severe animadversion when it should meet again after the adjournment. Indeed, he could wish that what he had just been saying should be considered, and stand as a notice of motion upon this subject; for he should certainly move, after the adjournment, that the House do give instructions to his majesty's attorney-general to file a criminal information against the proprietor, for this gross and scandalous paragraph against her majesty.

Mr. *Tierney* asked the learned member, whether he could not lay the paragraph in question upon the table that evening, and give notice for to-morrow.

Mr. *Wetherell* said, he was not prepared to take this step; as he had not a copy of the paper in his possession.

Dr. *Lushington* suggested that the paper could be procured either in the course of that evening or of to-morrow.

Mr. Wetherell then gave notice of the motion for to-morrow.

HOUSE OF LORDS.

Tuesday, July 25.

THE QUEEN.] The Earl of Shaftesbury laid on the table the report of the committee appointed to inquire into precedents relative to the enforcement of the attendance of peers during great and solemn occasions.

The report was read by the clerk as follows:

" The committee have met, searched the Journals, and found the precedents annexed to this report; and the committee are of opinion, that, if the House think fit, the following resolutions should be agreed to:—

" 1. Resolved, That no lord do absent himself, on pain of incurring a fine of 100*l.* for each day's absence pending the three first days of such proceedings, and of 50*l.* for each subsequent day's absence from the same; and in default of payment of any and every such fine, of being taken into custody.—2. That no excuses be admitted, save disability from age, viz., being of the age of 70 years and upwards, or from sickness, or having been out of the realm in foreign parts on the 10th July inst., being the day on which the order for the second reading of the said bill was made, and continuing out of the same; or out of Great Britain on his majesty's service, or on account of the death of a parent, wife, or child.—3. That every peer absenting himself from age or sickness do address a letter to the lord-chancellor, stating, upon his honour, that he is so disabled.—4. That the lord chancellor do write a letter to the several peers and prelates of the House in the following terms; and that a copy of the said resolutions do accompany the same:—'My lord,—I am commanded by the 'House of Lords to acquaint you, that 'the House expects your lordship's at'tendance upon the second reading of the 'bill, entitled 'An Act to deprive her 'majesty,' &c., on Thursday the 17th day 'of August next, at ten of the clock in 'the forenoon; and that it is the further 'order of the House that no lord shall 'absent himself from the service of the 'House upon the second reading of the 'said bill, or on any of the subsequent 'proceedings of the House upon the 'same, without the leave of the House, 'upon pain of incurring the displeasure 'of the House.—P. S. I am also directed 'by the House to send your lordship the 'resolutions.'—5. That the committee have been attended by the surveyor-general of the board of works, and by John Soane, esq., architect to this House, and have inquired of them as to the additional accommodation that could be provided for the number of peers who may attend this House upon the proceedings on the said bill; and it is the opinion of this committee 'That an humble address be pre'sented to his majesty, to request that his 'majesty will be graciously pleased to give 'directions that a gallery be erected within 'the House for the accommodation of the 'peers who may attend this House upon 'the proceedings on the said bill; and that 'a space be railed off below the bar for the 'accommodation of the counsel, agents, 'solicitors, witnesses, and others, whose 'attendance may be necessary on the said 'bill.' "

The resolutions were agreed to.

HOUSE OF COMMONS.

Tuesday, July 25.

COMPLAINT OF A LIBEL UPON THE QUEEN.] Mr. *Wetherell* wished that the important subject which he now rose to submit to the House had been placed in abler hands, as it was one that deserved the utmost attention which they could possibly give to it. As the House was already acquainted with the object of his motion, he should commence the observations which he had to make in support of it, by stating that it appeared to him that an individual, whose guilt or innocence was to be ascertained by the passing or the rejection of a bill of pains and penalties, was entitled to the same protection from the high court of parliament, during the investigation of his case, as would be extended to him by the other courts of the country were he to be brought to trial at their bar. Now, he was of opinion, that nobody would dispute, that pending a criminal, or even a civil proceeding in any of the courts of common law, a publication directly or indirectly tending to obstruct that proceeding, was itself, by the common law of England, a criminal offence. He had only to refer to what had occurred within their own recollection, as a proof of this assertion. It happened, however, that the motion which he had to make on this subject had in it this novelty—that no case had as yet occurred, in which, pending an inquiry, on which a bill of pains and penalties, or a bill of attainder, was to be founded, this question had been decided—he meant the question, "whether it was or was not the duty of parliament to take under its protection the person against whom the imputation of guilt was made, and, by so doing, to secure to itself full enjoyment of its own privileges?" Feeling, therefore, as he did, the novelty of the present question, it was not extraordinary that he should entertain some distrust and diffidence regarding the measure to be pursued with the paper which he now held in his hand, and the conductor of which, he was inclined to state, had been guilty of a breach of privilege. Now, when he said this, he felt that it was not for him to recommend the institution of a new precedent, if any doubt existed, regarding its being a breach of privilege. But still he must say, that it was his decided opinion, after giving the matter the best attention, that the paper did contain a most flagrant breach of privilege. The grounds on which he had formed this opinion were, that a bill affecting her majesty was before both Houses of Parliament. And here it was requisite to consider the nature of the proceedings against her majesty:—A message had been sent down by the king to both Houses, referring certain papers to their consideration. Immediately afterwards, a motion was made, in both Houses, to refer those papers to a committee. In the other House, the motion was carried; but in that House the consideration of the question had been adjourned. They next voted an address to her majesty, advising her to enter into negotiation—an address which not only did not impute any guilt to her—not only did not talk of conviction and of punishment—but which rather inferred innocence, and spoke of a reward. It had been presented to her with the same formalities that had been employed on presenting addresses to other queens-consort. In consequence of that address, a negotiation ensued, which did not end in an amicable arrangement. What was the next step taken by that House? A motion was made for the appointment of a committee, to search the Journals of the Lords, and report whether any further proceedings had been taken by their lordships. The result of the inquiries of that committee was, that the report of the Lords, advising proceedings against her majesty, was laid upon their table. This report was, therefore, a document common to both Houses, and showed them, in a cognizable shape, that their lordships had instituted that inquiry which they themselves had not repudiated, but had only suspended. The concluding passage of that report set forth, that "These charges appear to the committee so deeply to affect, not only the honour of the queen, but also the dignity of the Crown and the moral feelings and honour of the country, that, in their opinion, it is indispensable that they should become the subject of a solemn inquiry; which it appears to the committee may be best effected in the course of a legislative proceeding, the necessity of which they cannot but most deeply deplore." He only quoted this to show that there was, *in esse*, a recognizable parliamentary voucher that this was an inquiry which the legislature were called upon to institute. If he were right upon this point, another would arise out of it; and that

was, whether it was not incumbent on the House, in justice to the delinquent who was not to be tried by the forms of law, but by a bill of pains and penalties, to couple, in these anomalous cases, that species of protection to the parliamentary delinquent which was granted by the other courts to all who were tried before them. He would ask, whether, whilst an inquiry was subsisting, the House would suffer an individual, whose case was *sub judice*, to be run down by paragraphs, libels, and pamphlets, especially when those who wrote them would be punished for doing it if the matter were to be tried before the courts of common law? In point of precedent, he repeated that this was a new case; but in point of mischief it was not so. If a parliamentary inquiry did not protect a person from being run down out of doors, those who instituted it were guilty of a great destitution of public justice. There was a case on record, in which the House had been guilty of thus deserting its duties; and the consequences, all now allowed, had been most lamentable. The case he alluded to was that of lord Strafford. It was not till he had been convicted, by clamour, out of the House, that a bill had been introduced to convict him within. In his remarks on that case, lord Clarendon had lamented that the House had not taken some measures to silence those clamours, which had hunted him down, out of the House, and had prevented him from being tried fairly within it. If they were to allow guilt to be ascribed to the queen in the atrocious manner in which it was done in this paper, and to permit her to be convicted out of doors, before she was tried within, they were not securing to themselves the fair agency of opinion, but were leaving her destitute of that protection to which she was entitled. It might be said, that her case was not like the one to which he had alluded. Perhaps it was not so in all respects; but still the system pursued was the same. He might also be told that the trash in this "Luminary," and in other papers of the same class, was not likely to influence the opinion of any member of that House. The guilt, however, of such trash consisted not only in the actual mischief which it created, but also in the potentiality that it might create some. Without supposing that any man could have the purity of his heart or the clearness of his understanding polluted by such a paragraph, he would still maintain that the intention with which it was written, and the speculation which it was meant to answer, constituted the crime of it. Was he not right in this assertion? He maintained that he was, and that the attainder of Strafford was not the act of a free and independent legislature. They had left that nobleman unprotected, and they all knew the consequences which had then resulted from it. If they left her majesty similarly unprotected, what would become of the purity of that court—the high court of parliament—which, by one of their standing orders, was declared to be the standard of purity to all the other courts in the country? Having stated this, which was his view of the subject, he now submitted it to the knowledge of the House at large. He could not but think that analogy, fairness, and public justice demanded of them to throw the same shield of protection over imputed guilt, until that guilt was proved, which the constitution had thrown over all other culprits. But if they should say that this proposition was not true—or if they should say that it was an inquiry instituted by another branch of the legislature, and that it might be safely left to vindicate its own privileges—or if they should say that the conclusion to which he had arrived had not been fairly drawn from the case of Strafford—then he would present the question to them in another point of view. Nobody could dispute that the publication of such a paragraph as the one in question was a breach of the common law of England; and then, if they did not think it right to institute a new precedent, they could not—nay, he would say, they ought not—to take a way from her majesty the protection of the common law. If they would not protect her by their own authority, they certainly ought not to deprive her of any other protection. It was on occasion of a paragraph somewhat similar to the present that a learned judge, who enjoyed a great reputation whilst he was alive, whose judgment was strong, and whose heart never deviated from the strict rule of right (he meant the late lord Ellenborough), had observed, that to call a prisoner criminal before he was tried, was a most gross perversion of justice. The case to which he alluded was that of "The King *v.* Fisher." He had stated, after reciting the circumstances of some case, that the criminal was likely to meet the punishment of his guilt. Mr. Flindell

had not exactly told them that; but had asked, in words almost too gross to be mentioned, "Shall a woman who is as notoriously devoted to Bacchus as to Venus —shall such a woman as would, if found on our pavement, be committed to Bridewell and whipped—be held up in the light of suffering innocence?" With this writer the forms of trial were even unnecessary. Her majesty was a criminal; there was no trial required; there was to be *ipso facto* conviction, and then Bridewell and a whipping.—The learned gentleman then proceeded to read the judgment of lord Ellenborough in the case to which he had referred, and in which his lordship had condemned in very strong terms all attempts to pervert the course of justice. The circumstances of that case agreed in every point with the present, except that in the present the necessity of some judicial interference was much greater, as the attack made upon her majesty was in opposition to every doctrine of Christianity, and every feeling of just and honourable pride. He did not intend to overwhelm the House with authorities upon this subject; but he could not help calling its attention to what had been done by lord Hardwicke for an offence which fell far short of the atrocity of the present. That learned judge, when chancellor, had committed an individual for printing a statement of the proceedings in a civil suit before the cause had come on for trial, though he was the only person whose judgment could be perverted by the reading of such a statement. So, too, lord Erskine, who was a great friend to the freedom of the press, had committed an individual for writing an abusive letter regarding the receiver-general of the Court of Chancery. He need not remind his learned friend, the attorney-general, that his predecessors had generally taken under their kind protection every person who had thus attempted to bias the minds of jurors and of judges. He was sure that his learned friend could not have forgot a criminal information which Mr. Perceval had filed, when attorney-general, against the editor of a paper who had stated the circumstances under which an Excise-officer, in the discharge of his duty, had unfortunately killed a man, though he had not asserted in his comments that he ought to be committed to Bridewell and whipped. Mr. Justice Heath had tried that case, and upon the trial would not allow evidence to be produced to prove that the editor in question had published nothing more than was usually done upon such cases. He stated that such accounts were calculated to inflame the people; he did not require proof that it had inflamed any particular individual, but argued upon the abstract potentiality that it might do injury. To produce further authorities upon that head would be to question the notoriety of that which was already too notorious; he should content himself therefore with stating, that the offence with which he charged Mr. Flindell was the branding with criminality a person who was at present untried. He left it to the House to consider what measures they would take to punish the enormous atrocity of which Mr. Flindell had been guilty in asserting that the queen of England ought to be committed to Bridewell, and should be there whipped, unheard, and without a trial. Would they allow it to be said, that an excise-officer was to be protected from all attacks whilst upon his trial; but that the wife of their present, and the niece of their late sovereign was to be exposed to all the base and cowardly attacks, which any scribbler might think it proper to make upon her? He had already stated that there were two ways in which it appeared to him that the House might proceed in this case; they might either consider it as a breach of privilege, and vindicate it as such; or, if they did not think proper to vindicate their authority in this manner, they might punish the author by means of the common-law, against which he trusted that he had shown him to have offended. Under these circumstances, and with much distrust and diffidence in his opinions, he should sit down, in confident expectation that the House would inflict some punishment or other upon the author of this atrocious paragraph. Previously to taking any other steps, he should move that the paper in question, "Flindell's Western Luminary," should be laid upon the table.

The paper was accordingly laid upon the table.

The *Speaker* then asked Mr. Wetherell, whether he meant to complain of the paper as guilty of a breach of privilege, or to move that the attorney-general be directed to prosecute the editor of it for the passage reflecting on the queen?

Mr. *Wetherell* replied, that he should first move that it be taken notice of as a

breach of privilege. If he failed in that motion, he would then move that the attorney-general be ordered to prosecute the editor of the paper.

The Speaker then desired Mr. Wetherell to score under the lines which he thought to contain the breach of privilege. Mr. Wetherell did so; after which the paper was put in, and the paragraph, which we have inserted, was read.

Mr. *Wetherell* wished the whole of the article, of which that paragraph formed a part, to be likewise read, in order that the House might judge better of its malignity from knowing the context.

The clerk then proceeded to read the article until he came to the words of the libel, when Mr. Tierney thought, that enough had then been read for the House to understand the nature of it. Mr. Wetherell acquiesced, and said that, under such circumstances, he would move, "That (it appearing to this House, that an inquiry is now pending in the House of Lords into the conduct of the Queen, which may become the subject of Pains and Penalties, or other proceedings against her in this House) the said paper is a breach of the privileges of this House."

Sir *M. Cholmeley* seconded the motion. He said, that the slanders which were disseminated by means of the licentious press of the country were certainly such as went to deprive the two Houses of any thing like freedom of judgment. If the press were to form the judgment of the country on this important question, it might happen that the judgment of the two Houses of Parliament might not be satisfactory to it, and in that case the most dreadful consequences might be anticipated. He therefore gladly seconded this motion, and trusted that the effect of it would be not only to deter the editor of the paper complained of from pursuing a similar conduct, but to put down the efforts of the licentious press throughout the country.

Lord *Castlereagh* observed, that nothing could be more painful to a well regulated mind than to observe the extreme length to which the press had gone in discussions on this subject. Instead of presenting the country to the view of foreign nations, as a well organized state, obedient and amenable to the laws, which had been its character in all former times, it had presented it to their view as an angry and disturbed community, most adverse to good order, and remote from civilization. There could not, however, be two opinions upon the article in "Flindell's Western Luminary," which had just been complained of; and, whatever observations he might have to make upon the course which the hon. and learned gentleman had pursued, he could assure him that no man could feel more indignation than he felt at the article in question, and indeed at the general manner in which the whole press of this country had disgraced itself on this question. There could be no doubt that the paragraph to which their attention had been called, was a gross libel; and the only doubt which could exist was as to the course to be pursued with respect to it, and the measures which it would be most prudent to take, in order to punish its author. The libel, he observed, was of very recent date; but still, recent as it was, it had attracted the notice of his majesty's attorney-general. In the conflict of libels which now issued daily from the press, it was not within the power of his hon. and learned friend to repress all which seemed deserving of punishment. But the laws were open to all, and if his majesty's law-officers had neglected this libel, her majesty's law-servants would still have retained the right of prosecuting for it; and, therefore, the hon. and learned member would allow him to say, that he had not done right in observing, that because the attorney-general had not prosecuted this libeller, there were no other means of obtaining redress than by bringing it before parliament. The learned gentleman had stated, that the House was called upon to take this matter up as a breach of privilege, because a bill might come down to the House from another place, and investigation be rendered necessary; but he had failed to show that this libel was so connected with the proceedings, as to render it necessary that the House should vindicate its privileges, by recurring to a measure of which some members doubted the propriety under any circumstances whatever. He trusted that in making these observations he should not be considered as vindicating the publication in question. He disclaimed any such intention, and at the same time, confessed that he should have been sorry had it been passed over in complete silence. The hon. and learned gentleman had, however, placed the House in a very painful situation, by the course which he had taken; because, after what he had

done, it would be injurious to the interests of public justice, not to notice this publication by some mark of their indignation.' Before the learned gentleman had called the attention of parliament to it, it would not have been derogatory from his character for impartiality to have considered whether there were not other bodies in the state, and other parties in this suit, equally menaced as the illustrious lady on whose behalf he had thought it requisite to bring forward this motion. If he had read any of the ordinary prints of the day, he would have found, not only in one, but in many of them, shameful libels against those who were to be the judges, and those who were to bear evidence in this investigation. The House would allow that it would not only be fatal to the interests of justice, but also to those of morality, if witnesses were not placed under the protection and safeguard of the law. The hon. and learned gentleman would not deny this: and yet, if he could see the witnesses who had arrived in this country run down by libels, and brought into danger of their lives by tumultuous mobs excited by those libels, without complaining of those outrages as tending to pervert the course of justice, he must look at them with a very different eye from that with which he (lord C.) contemplated them. If they were to exercise their authority in vindicating their privileges, and if their privileges were supposed to be infringed by any attempt to pervert public justice, then must they exercise those privileges with an even hand—then must they take care that not one interest only was protected, and that the witnesses and the court should not be held up to the public as fit objects for assassination. He could have wished that this publication had been left either to the law-officers of the king, or to those of the queen; but if it was to be taken up, he could have wished it had been done without calling the attention of the House to the disgusting spectacle which the press of England now exhibited, disseminating as it did the most atrocious and unprincipled doctrines. Men in official stations had not, in general, time to look into the diurnal prints, or to rake together the faulty passages which they might contain; but they might be driven to do it by individuals looking with a jealous eye for objectionable passages in the publications which support their measures. The hon. and learned gentleman would have acted with more fairness and impartiality had he looked into the publications of both parties, and not confined his view to those of one side only. By doing so, he would have found many passages containing a greater infringement of their privileges than that of which he now complained. The legal arguments which he had just used might have done much, and he (lord C.) had no doubt had done much, to convince the House how improper and also how illegal any publications were which had a tendency to pervert public justice. If the learned gentleman had been desirous of applying those arguments without respect of parties, he might have found an instance to which they would have applied more forcibly than that to which he had directed them. He might have found a case in which the jurisprudence of parliament had been most openly and daringly attacked. He would read the paragraph to which he was referring to the House, not with any view of founding a complaint upon it, but of showing how much the press of this country had disgraced itself in treating this subject. In the last number of the "Examiner" was the following paragraph:—

"This is what a true Commons House would have done; but when that House, for the main part, is composed of venal boroughmongers, grasping placemen, greedy adventurers, and aspiring title-hunters, or the representatives of such worthies,—a body, in short, containing a far greater portion of public criminals than public guardians—what can be expected from it, but——just what we have seen it so readily perform?"

This was as direct an attack as could be made on the House of Commons, as part of the high court of parliament. If the Lords formed a part of the tribunal, so also did they; and therefore this paragraph was quite as daring a breach of privilege, even upon the hon. and learned gentleman's own showing, as that now complained of. Was this, however, a solitary attack upon the manner in which the high court of parliament was formed? By no means. The "Republican," in his last number, said—

"We have very little hopes that the Divorce bill will be rejected in such a parliament as the present, because we know, and have seen, that they are sufficiently profligate and servile to act against the clearest testimony of innocence and right.

Still this will matter nothing; the king and parliament must wipe off the disgrace which has so long hung about themselves before they can disgrace the queen in the public mind. The more she suffers, the more will she be endeared to the nation. There never was in England a monarch more suspected and despised, nor a parliament more notoriously profligate, than at present. Was it not that they hold the purse-strings of the nation, they would be kicked out of all power in a few hours, and fairly swept out of the country. At present their doom is sealed, and the herald approaching with it."

In another place the members who were to compose this tribunal were compared to the noisy inmates of a brothel: but not only was the utmost licentiousness displayed by the press upon this question, but even upon others. Speaking of monarchical governments, this is their language:—

"The earth has groaned under the curse of monarchical governments much too long. Civilization has struggled against it almost in vain; and Nature herself seemed almost to despair of shaking it off. But the monarchical form of government is like every other vice—it will destroy itself in the course of time, even if no opposition be made to it."

Their mode of discussing religious topics was not less disgraceful; and the noble lord proceeded to prove that assertion by reading another extract from one of the publications which he held in his hand. From these extracts, taken almost at random from the various publications of the day, it was clear that the licentiousness of the press was at present truly deplorable; and was so extensively prevalent, that if it was to be checked by the exercise of the privileges of that House, it could not be by the exercise of them in the confined and limited manner which the hon. and learned gentleman had proposed. If it was necessary to exert them on behalf of the queen, it was no less necessary to exert them in behalf of her judges, and those who were to bear evidence before them; and nothing would give him more pain—for nothing could be more disgraceful to the House of Commons—than to see them turn a deaf ear to all solicitations for interference except they came from a particular quarter. If the House were to determine to prosecute all publications of a certain class, he should certainly feel it his duty to move that a sweeping injunction should be given to the attorney-general to prosecute the offensive publications of every class: not that he meant to insinuate that his hon. and learned friend, the attorney-general, would not do so without such an injunction; but that he thought one party should not be allowed to escape scot-free whilst another was punished. Before he concluded he could not help observing that the complaint now made was rather premature. The paper in question was of very recent date; no proceedings could be taken against it till after the long vacation, and therefore it was not fair to infer that government were insensible of the malignity of this libel, because no steps had yet been taken to punish it. He must again repeat, that if the attainment of justice was the only object which the hon. and learned gentleman had in view, prosecutions ought to be instituted against the writers on both sides of this question. The House could not express its indignation on one particular case, and be silent upon all others; and he therefore felt it his duty to state, that if the learned gentleman persisted in pressing his motion upon this particular paper, he should hand in to the clerk those papers from which he had read so many extracts.

Dr. *Lushington* said, that he felt it his duty to state, why he had not come before the House with some specific complaint regarding this atrocious paragraph. The paper in question had been put into his hand some days ago by an hon. friend, who had directed his attention to it—and he had also received information of it from other quarters. On reading it, it excited such indignation in his mind, that he determined to give it his most particular attention. But when he considered that the paper in question was in all probability an obscure country paper, with little or no circulation, and that it would be nothing to repress its malice unless that of a part of the metropolitan press was also checked, it appeared to him to be inconsistent with the dignity of the queen to take any notice of this "Western Luminary." He recollected also, that when his noble friend, the member for Aylesbury, had brought the Morning Post and the Courier before the notice of the House (the first for stating that the queen ought to suffer, it mattered little whether as a criminal or a martyr; and the latter for inserting calumnies against

her majesty almost as atrocious as that on which they were then debating), little indignation appeared to be excited within the walls of that House. When he considered, too, that these papers, as also others which generally supported the measures of government, and which were supposed to be, in a certain degree, under its influence, were suffered to go at large with every species of libel in them which could disgrace her majesty or injure her cause, it appeared of little consequence to him whether the "Western Luminary" met the punishment it deserved or not. Indeed, he thought it better to let the writer of that paltry paper, in his greedy anxiety after base lucre, to die in the oblivion to which his demerits were certain to consign him, rather than to call him into notoriety by any efforts which he might make to punish him. Had he, however, thought that, by attacking that reptile, he could have silenced the malignity of other scribblers, he would boldly confess, that, unpleasant as it would have been to him, to call down the vengeance of the laws on the public press, he certainly would have attacked him. His hon. and learned friend had stated, that the offence of that individual consisted in branding her majesty with criminality before she had been brought to trial. He agreed with him fully upon that point; but had her majesty had no guilt imputed to her, no criminality alleged against her, without a trial and before conviction, except in the public papers? Would she now go to her trial in the same predicament and under the same advantages with which any other individual would go to it? No: she had already been treated by the government as if she had been convicted—she had been deprived by its orders of all the honours due to her rank and sex—she had been disgraced in every way which their ingenuity could invent: they had erased her name from the Liturgy, whilst her trial was pending, without informing her what were the charges of which she was accused, without telling her who were the persons who took it upon themselves to accuse her, without confronting her with those who were said to be the witnesses of her shame, without giving her an opportunity of refuting their testimony, and without permitting her to speak in her defence. Under these circumstances, he could not help asking the House what opinion they would have formed of his judgment, if, after all that had thus occurred, he had called upon the House to take any notice either of the Post, the Courier, or even of Flindell's Western Luminary? True it was that her majesty had been most shamefully calumniated—true it was that her case had been most unwarrantably prejudiced; but it was not by any of the paltry publications of the day, but by those which exercised a much more powerful and extensive influence. Such was the view which he had taken of this subject, and such as it was, he had submitted it to her majesty, who fully concurred in the propriety of it. With regard to the press in general, he had always considered that any attempt to restrain it must be attended by great mischief. Whenever he had heard accusations preferred against it, he had always said that, subject as it was in its licentiousness to do great harm, it was still always productive of greater advantages; and that, when once attempts were made to fetter it, there could be no telling where those attempts might end; for without a press entirely and absolutely free, it was impossible that the liberties of this or any other country could long exist in safety. Whilst he was thus stating his opinion of the public press, he felt it necessary to add, that he would not suffer such publications as those which the noble lord opposite had read to them to go unpunished. He would leave it, however, to his majesty's law-officers, acting under the responsibility which attached to their stations, to do their duty in regard to them; and would not leave it to any individual who might think fit to prosecute them without being under that responsibility which they were, and without having the same means of obtaining accurate information. Every thing, however, must be completely altered before her majesty should ever, by his advice, resort for protection to the lower courts, when she ought to be placed under the protection of the highest. If government had protected her majesty up to the time of trial, and had not treated her as guilty until she had been regularly proved so, the case would have been very different. He agreed with the noble lord as to the propriety of protecting all the witnesses from insult, on which ever side they might be; and could see nothing but disgrace and infamy attaching to the country, if the witnesses who came to it were to be in perpetual danger of their lives, and were not allowed to give their evidence

free from any bias or embarrassment whatsoever. He would take that opportunity of informing the House and the country, that her majesty had not read any publications of the nature alluded to by the noble lord, and that she would not read any of them either before or during the trial. If the law officers of the Crown were determined to fix upon any publications of that class for prosecution, he hoped that they would not be of that description which had been selected two or three years ago. He alluded to some prosecutions against the Morning Chronicle and other papers, in which so much doubt existed as to the offence, that acquittals necessarily followed. Prosecutions against the press ought never to be instituted except in extreme cases, and where the obtaining of a conviction was almost rendered a moral certainty.

The *Attorney General* wished to say a few words, as some misconduct or neglect of duty on his part appeared to be imputed. He thought it a little singular that the hon. and learned mover, should have selected from the numerous libels with which the press had teemed, that which he had brought under the consideration of the House; as it was one so recently published that no opportunity had been given to the law officers of the Crown even to consider whether they should commence proceedings against it. If the hon. and learned gentleman thought this so gross a libel that no time was to be lost in bringing it before the House, he was surprised that the hon. and learned gentleman had overlooked not only the publications from which his noble friend had read extracts, but various other publications, which for the last three or four weeks, had been indulging in the grossest reflections on the conduct both of that and of the other House of Parliament. With respect, however, to the main question before the House, it ought to be recollected, that no *ex officio* information could be filed by the attorney-general against any of those publications until the ensuing term; and therefore, still thinking that the hon. and learned gentleman might have given him credit by believing that his attention had been directed towards the various libels with which the public press had been inundated since the commencement of the unfortunate discussion in question; yet, if the hon. and learned gentleman's object was, to call to account those, who, by their conduct, were likely to impede the course of justice, by biassing the conduct of parliament, he was afraid that that object would be tardily accomplished, since the prosecution of this libel, which he allowed attacked the conduct of her majesty in terms which must excite general disgust and reprehension, could not be commenced until Michaelmas term. At the same time, he was perfectly aware that the tardiness of the punishment would be no excuse for him; and that there were many cases, as well as that particular one, in which it would be his duty to institute criminal proceedings. He perfectly agreed with the hon. and learned gentleman who had just sat down, that any attorney-general was wrong who commenced a prosecution for libel, without a moral conviction in his own mind that he was entitled to and should obtain a verdict. It was unpleasant to speak of himself, but he appealed to the hon. and learned gentleman, whether, on a review of the prosecutions of that nature which he had instituted since his entrance on office, there was a single instance in which he had not obtained a conviction. He took no merit for that. Unfortunately, the present state of the public press was such, that if he had instituted more prosecutions, he had little doubt that he should have obtained more convictions. But he mentioned this to show that he had been guided by the hon. and learned gentleman's rule; namely, never to commence any such proceeding unless he believed in his conscience that he should obtain a verdict. The hon. and learned gentleman, however, not choosing to confine himself to the question before the House, had, as on former occasions, attempted at the close of the session, to reiterate those accusations against his majesty's government which he had so freely made during its progress. The hon. and learned gentleman had said, that her majesty having been treated as a convicted person by his majesty's government, could not expect any redress for her wrongs in that quarter. It was very painful to him (the attorney-general) to talk on this subject. He had more than once deprecated the introduction of it. But he thought that the question was not fairly treated by the hon. and learned gentleman. The hon. and learned gentleman, without any foundation, attempted to raise a prejudice (which must have its effects, not only in that House, but out of doors) against his ma-

jesty's ministers, who, in the discharge of the painful duty which had devolved upon them, had been reluctantly compelled to take the step in which the proceeding at present pending in the other House of Parliament originated. Again, the hon. and learned gentleman had adverted to the omission of her majesty's name in the Liturgy. For himself, he was satisfied that whatever question might arise as to the expediency or inexpediency of that step, in point of law it was completely justifiable. But what would have been said if his majesty's ministers had advised the insertion of her majesty's name in the Liturgy? It appeared that a most serious charge against her majesty had been communicated to his majesty's government, supported by evidence which it was impossible for them to overlook. It was said, that by the omission of her majesty's name, government had pronounced a sentence of condemnation on her majesty. This was a groundless assertion. But, if his majesty's ministers had advised the insertion of her majesty's name in the Liturgy, how could they, with any consistency, have brought down the royal message, or have been accessary to the proceeding in progress in the other House of Parliament? He denied that there had been any want of respect on the part of his majesty's government towards the queen. Any apparent disrespect was attributable entirely to her majesty's own conduct. He confessed, that he thought the course pursued in that House by the hon. and learned gentleman, though a very excellent course for the advocate of her majesty, whose business it was to make the most of every thing for his client, was by no means a proper course for a member of parliament. He thought that the less that was said upon the whole subject the better, in order that the House might keep their minds free from bias, and be qualified to pronounce with impartiality on the momentous question, if it should come before them. All attempts to depreciate the character of the witnesses in this great question—to presume that they were false and perjured, and that no truth could be expected from them—were amenable to the law, and, on whichever side they were made, ought to be punished. But that House ought to be extremely cautious not to lend themselves to the popular feeling—a feeling excited, not for the purpose of running down her majesty, but to prejudge the case the other way. Although he condemned the libel now in question as much as any man, yet in point of numbers and industry in this metropolis, there was no comparison between those whose libels were of that tendency and those who called themselves her majesty's friends, but who, under that hypocritical mask, were actively endeavouring to undermine the government, and to effect that which they had long had in view—a revolution. No man could walk the streets of London without seeing the infamous placards from such persons on every wall. But, had the hon. and learned gentleman ever seen any placard of a contrary character, attempting to prejudice her majesty's cause, or to brand its supporters with infamy? Perhaps there never was a period when the duties of the attorney-general were so heavy as at the present moment; and of all those duties none occupied his attention more than the state of the public press. He lamented to say, that although it would be indispensable to institute numerous prosecutions, he was apprehensive that the arm of the law could not sufficiently restrain the licence of the press. He felt as much interested as the hon. and learned gentleman could do for the preservation of that inestimable blessing, the liberty of the press; but he was persuaded that no man who read the infamous publications to which he alluded, would say that to bring their authors into a court of justice would be to attack the liberty of the press. The existing licentiousness of the press was greater than it had been in any former period of our history. He was sorry that it fell to his lot to endeavour to repress it. He trusted that he should not be considered to have been remiss in the discharge of his duty, because he had not yet taken notice of a publication that appeared only last week. The perusal of the gross and infamous libels which appeared, day after day, and week after week, would occupy the whole of the time of the attorney-general. At the same time, he must not sleep on his post; for remissness was as much to be deprecated as an injurious activity. He confessed, that with all the hon. and learned mover's ingenuity and talent, he was at a loss to discover by what link in the hon. and learned gentleman's reasoning he made the immediate publication in question a breach of privilege. As to the other object of the hon. and learned gentleman's proposition, namely, the instruction to the attorney-

general to prosecute, it would not become him, having the honour to hold that office, to say one word.

Mr. *Tierney* declared his determination to reserve his further opinions on the great question respecting her majesty, until it should come regularly before the House. He would therefore confine himself strictly to the motion. He confessed that he could not well understand how his hon. and learned friend could make the libel in question a breach of the privileges of the House. At least, the argument by which his hon. and learned friend had endeavoured to do so, appeared to him to be too refined. Because the House of Commons knew that the House of Lords had entertained a bill which respected her majesty, and because that bill was a parliamentary proceeding, and because the House of Commons was a branch of parliament, therefore the libel in question was a breach of the privileges of the House of Commons. Now, it should be remembered, that what that House knew of the proceedings in the House of Lords, was not by a communication from that House, but merely from an examination of the Lords' Journals. The bill might never come to the House of Commons. If the publication in question was really a breach of privilege, it ought to be taken notice of by the House of Lords rather than by the House of Commons. The next question was, whether, if it was declared to be a breach of privilege, the attorney-general should be instructed to prosecute? Now, to such a proceeding, he conceived there were many objections. It was odious to send a man to trial with the weight of the opinion of the House of Commons against him. But even if prosecution by the attorney-general were the fit course, it was for the House of Lords to pursue it, and not the House of Commons. Under all the circumstances of the case, he strongly recommended to his hon. and learned friend to withdraw his motion.

Lord *A. Hamilton* denied that when he or the hon. and learned gentleman said any thing in that House, in disparagement of the conduct of ministers towards her majesty, it was with the view of inflaming any one either in or out of doors. What they did was merely to recapitulate that conduct. If such a recapitulation had the effect of inflaming, it was attributable to the conduct itself, and not to him. It appeared to him that the attorney-general had been unfortunate in his illustration respecting the omission of her majesty's name in the Liturgy. The learned gentleman said, that if ministers had advised the continuance of her majesty's name in the Liturgy, they could not consistently have sanctioned the charges against her. He thought it was quite erroneous to say that a charge could not with consistency be made against any one who, until the time of the charge, had been treated as innocent. But had ministers done nothing else which had the same effect that the learned gentleman supposed would have resulted from the insertion of her majesty's name in the Liturgy? Was not the offer of 50,000*l.* a year as inconsistent with the subsequent charge of criminality, as the insertion of her majesty's name in the Liturgy would have been? And, besides, there was something mysterious in striking her majesty's name out of the Liturgy; for it was stated in the papers on the table of the House, not to have been done in consequence of the intended proceedings against her majesty. To the declaration of the hon. and learned gentleman, that there were persons actively engaged in converting the temporary occurrences of the present day to purposes of lasting mischief, he would add, that those persons had the most valuable coadjutors in his majesty's ministers; for certainly never was a more injurious, impolitic, and unjust course pursued by any government, than that of arming one branch of the royal family against another, and teaching the public that the triumph of the one could be obtained only by the disgrace of the other. As to the libel in question, it was so gross, so injurious, so beneath any thing that could emanate from a man of liberal education, that, in his opinion, it could be detrimental only to its author.

Mr. *Maxwell* deprecated the conduct pursued by ministers towards the queen; but however improper that might have been, he could not allow such libels as those that had been lately circulated, to continue to be so circulated any longer with impunity.

Mr. *Wetherell* said, that as the noble lord and the hon. and learned gentleman had both intimated that the publication in question would become the subject of prosecution, his object was answered, and he felt great satisfaction that it was so. The House might therefore dispose of his motion as they thought fit. He could not help observing, that the noble lord had not commented on his con-

duct with his usual amenity, when he observed that he had not proceeded diligently and accurately on this subject. The noble lord had charged him with a kind of neglect in not having brought forward similar motions against "The Examiner" and other publications. It seemed, however, that the noble lord's own attorney-general had not read those publications. How, then was he (Mr. W.) to be expected to submit them to the consideration of the House? Was he to be the noble lord's shadow or faggot? He was in no such situation. It was enough for him that he had brought under the notice of the House one publication on which an unanimous opinion had been pronounced, that it was a fit subject for prosecution, and which it was intended to prosecute. With the leave of the House he would withdraw the motion.

The motion was accordingly withdrawn.

REFORM OF PARLIAMENT—PETITION OF GEORGE EDMONDS.] Mr. Alderman *Wood* presented a petition from Birmingham, complaining of the evils resulting from the state of the representation. The petition reprobated the constitution of parliament. It condemned all attempts made by individuals to possess themselves of boroughs or towns in their own right as acts of treason to the state, and contended that the offenders in the cases alluded to had been inadequately punished in proportion to the enormity of their offence in violating the purity of election. The petition was signed by George Edmonds.

The petition was read and laid upon the table. Mr. Alderman Wood moved that it be printed.

Mr. *R. Smith* rose to compliment the House upon the patience with which it had listened to such a compilation of falsehood and nonsense. He had stopped to hear it read through, although it was so extremely prolix, that he might be in perfect possession of its very extraordinary contents. Now that he was aware of them, he certainly should consider himself extremely culpable if he did not oppose the printing of such trash at a very considerable expense to the public; more particularly as there appeared to be less necessity for any delicacy, as the petition and remonstrance was only signed by an individual, and that individual had not so signed it as the representative of a corporate body.

Mr. Alderman *Wood* had been informed, on receiving the petition, that it contained the sentiments of a numerous meeting of respectable householders at Birmingham, although it had only been signed by their chairman. It was rather strange, he thought, in the hon. member who opposed the printing of the petition, that he should have waited in the House purposely to possess himself of the information or sentiments it contained, and after having enjoyed such a treat he should have the cruelty to deny a similar indulgence to such gentlemen as were absent. He would not withdraw his motion; there were many reasons why he thought he should press it.

Mr. *Gurney* admitted that the petition did not claim any respect from the House as a sensible composition; but he was afraid, [illegible] refusing to permit it to be printed, silly as it was, that such a refusal might hereafter be drawn into a precedent on a motion for printing a much more sensible petition. He should therefore prefer that the House should, as it had suffered the petition, after it was aware of its contents, to be laid on the table, suffer it to be printed, as was usual whenever an application of this nature was made, lest the refusal should be drawn into a precedent, to the prejudice of a more serious case.

Mr. *R. Smith* considered it sufficient that the House should be open to receive and listen to the suggestions of collective bodies, or individuals, some of whom, as in the present instance, might be justly considered reprehensible as having trifled with the time and patience of the House; but when it was gravely proposed by the worthy alderman to print such offensive nonsense, he felt it a duty imposed on him to oppose it as a public evil, as well as an insult to the House.

Mr. *Lushington* considered the petition had already, in being suffered to lie on the table, received more attention than it merited. It would be an intolerant evil if such trash were permitted to be printed as a matter of course.

Mr. Alderman *Wood* wished to withdraw the motion, as he confessed he had no doubt, from the state of the House, it would be negatived.

Mr. *R. Smith* said, he should not consent to its being withdrawn; it was more advisable that the opinion of the House should be given on the merits of the petition in a more marked way by a decided negative.

The question for printing the petition was then put and negatived.

LANDLORDS AND TENANTS.] Mr. *Tennyson* said, that the Landlords and Tenants' bill, which he had had the honour to introduce, having now received the royal assent, he wished to give notice, before the House separated, that, conformably to an intention which he had before intimated, and to what he found to be a prevalent feeling on the subject, he should, early in the next session, move for leave to bring in a bill for further and more generally amending the laws which affect the relation of landlord and tenant, and especially for providing a more summary and accessible, and a less expensive remedy for recovering the possession, when unlawfully detained, of small tenements held at a rent not exceeding 20*l.* or 30*l.* a-year. He deemed it right to give this long notice, more effectually to direct the attention of the House and the country to a subject so important to the landed interest and the public at large, in order that, when he should bring it under the consideration of parliament, it might have the benefit of that previous and matured reflection, which it so much required, and so fully deserved.

On the following day, both Houses adjourned, the Lords till the 15th, and the Commons till the 21st, of August.

HOUSE OF LORDS.

Thursday, August 17th.

At twenty minutes before ten, the Lord-Chancellor entered the House. The Bishop of Llandaff immediately read prayers. Chief-Justice Abbott, Chief Justice Dallas, Justices Holroyd and Best, and the Barons Richards and Garrow took their seats on the woolsack. At ten the House was called over by Mr. Cooper. Sundry peers were excused from attendance on account of indisposition, age, &c. The Lord-Chancellor, stated, that he had received a letter from the duke of Sussex, in which he submitted to their lordships whether on account of the ties of consanguinity which existed between him and the parties who were so intimately connected with the bill, it might not be proper to permit him to be absent upon the present painful occasion.—The Duke of York said, that if any person, on a variety of grounds, had stronger claims than another to request leave of absence upon this occasion, he was that individual. He would not, however, suffer any private feelings to deter him from doing his duty, however painful that duty might be.—While the names were calling over, Her Majesty, attended by Lady Ann Hamilton, entered the House from the robing room. On her entrance all the Peers rose to receive her. Her Majesty took her seat in an arm chair prepared for her, on the right of the throne.

BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.] The Earl of Liverpool now moved the order of the day for the second reading of the bill intitled, "An Act to deprive Her Majesty Caroline Amelia Elizabeth, of the title, prerogatives, rights, privileges, and exemptions of Queen-Consort of this Realm, and to dissolve the Marriage between His Majesty, and the said Caroline Amelia Elizabeth."

The Duke of *Leinster* rose, and said:—My Lords; I do not intend to intrude any observations of mine upon the attention of your lordships at present. But I think it my duty to take the speediest course of putting an end, if possible, to this unfortunate proceeding. I therefore move, that the order of the day for the second reading of the bill of Pains and Penalties against Her Majesty be rescinded.

Upon this motion, their lordships divided, and the numbers were:—Contents, 41: Not-Contents, 206; Majority, 165.

List of the Minority.

Duke of Leinster	Viscount Anson
Somerset	Lord Duncan
Bedford	Bolingbroke
Argyle	Downe
Hamilton	Torrington
St. Alban's	Hood
Marq. of Downshire	Kenyon
Earl of Essex	King
Darnley	Saye & Sele
Jersey	Gwydir
Albemarle	Clifden
Suffolk	Auckland
Besborough	Dundas
Stanhope	Dacre
Fortescue	Belhaven
Carnarvon	Sondes
Grosvenor	Ducie
Thanet	Holland
Cowper	Hawke
Ilchester	Foley.
Oxford	

The Earl of Liverpool then moved, that counsel be called in.

The Earl of *Carnarvon* rose to state his motives for the course he intended to take upon the present occasion. He thought it due to their lordships and the country, that he should fully enter into the reasons which induced him to oppose the present proceeding. He objected to it, because he felt that it was inconsistent with the public interest; and also because he felt it was inconsistent with their lordships honour, which he conceived would be tarnished if this bill were suffered to proceed one step farther. He felt such strong objections to a bill of this kind, that he was now ready to state, that he could hardly conceive any cause sufficiently forcible to induce him to vote for such a proceeding. But if any case existed in which he could bring his mind to support a bill of Pains and Penalties, it must be one of absolute necessity. Was there, he would ask, one of their lordships, or was there a man throughout the whole country, who conceived that the investigation of these charges, under all the circumstances, was called for by the necessity of the case? Did their lordships believe that the country would be threatened with danger, if those charges had never been instituted? For his own part, he conceived that they did not entertain such an opinion; but on the contrary, every individual who had maturely weighed the subject was, he had no doubt, impressed with the idea that danger was rather to be apprehended from the course they were pursuing. He could not conceive any benefit that could be derived from the further proceeding with this measure, but he could see many difficulties and dangers that were likely to arise from it. Bills of Pains and Penalties had all the effect of *ex-post-facto* laws; they were intended to punish those by an indirect method, who could not be convicted by due course of law; they were meant to supply defects of evidence; but he would ever contend, that an attempt so to supply a defect of evidence was opposed to every principle of public justice; if the principles of public justice, as laid down by our courts of law, were indeed well-founded. On that ground alone, if there were no other on which he could found his opposition, he would protest against the course which their lordships seemed inclined to pursue. The last instance of a bill of this nature, and the instance which was most decidely relied on, was that of sir John Fenwick, in the reign of William the 3rd. Had he, however, existed at that period, he would have given his decided vote against the bill. The only ground for it was, that some of the witnesses had been withdrawn, and that therefore, there was a want of the necessary evidence to go before the public. But, even in that case, he thought their lordships should not have proceeded by a bill of Pains and Penalties to supply a defect of evidence. He could not admit the case of sir John Fenwick to be of such a nature that he ought to have been found guilty by an extraordinary process, when, by the usual course that would have been pursued in a court of justice, he must have been acquitted. That business, he found, had commenced in the House of Commons. It had created many discussions; and when the bill was brought in, there was on the motion for the second reading a majority of 92 members in favour of it; but when it passed, that majority had dwindled down to 33. The bill came regularly before the House of Lords; and so little did their lordships feel the expediency of passing it, that it was carried by only a majority of 7. Bishop Burnett attempted to argue, that the bill of Pains and Penalties was a constitutional and legal mode of proceeding, and the first case which the learned bishop adduced in support of his argument was a most extraordinary one. He stated, as a proof of the legality of the proceeding, that a man accused of having attempted to destroy the bishop of Rochester by infusing a quantity of poison into his food, was not only awarded by such a measure to be guilty, but was sentenced to be boiled alive.* This was the triumphant species of example by which the learned bishop had attempted to defend a proceeding which was contrary to every established doctrine of law. It might be stated, that in tumultuous times, when great danger was apprehended, this arbitrary proceeding might be resorted to, and justified on the ground of necessity. But where was the danger in the present case? Where was the necessity of a parliamentary instead of a judicial proceeding? And in the case of sir John Fenwick, which was so much relied on, what evil was likely to have been endured by the country, if the bill of Pains and

* New Parl. Hist. v. 5, p. 1154.

Penalties had not been adopted? If the case now brought under the consideration of parliament had not been inquired into at all, what danger had the country a right to apprehend? The conduct—the votes, he would say, of the House of Commons—the conduct of ministers themselves, who were the accusers on this occasion—showed that, so far from any danger being apprehended from keeping this question back, they would willingly embrace any mode by which they could possibly get out of this scrape. Was it not, then, a case that violated all the principles of justice, when they were called on to make a law by which an individual who had not committed any "legal crime" might be found guilty? Was it not monstrous to ask their lordships to pass a law of this kind, in the absence of all ground of public danger? Looking to the case, under all these circumstances, the public had not—as they felt they had not—any decided interest in this proceeding. If the noble earl who brought the measure forward would rise in his place, and state that he apprehended any real danger to the succession to the Crown of these realms—if he would state to their lordships and the public some strong and paramount reasons for adopting such a system—he would pay the utmost attention to that declaration. But he believed there was not one of their lordships who imagined that any such ground could be stated. Their lordships must not forget the situation in which Her Majesty was placed at the period when the charges contained in this bill originated. Hers was not a common situation. Long prior to the period to which he alluded, in consequence of unfortunate circumstances—circumstances not unusual to human nature, and which alone could be accounted for by a reference to human infirmity, which sometimes disturbed the tranquillity of married life—for nearly twenty years before the circumstances which gave rise to this discussion, this illustrious personage had not only been estranged from the affections of her royal consort, but she had been shut from the court of the queen, and denied access to almost the whole of the royal family. She had been placed in a situation of so peculiar a description, that, if any other individual had been similarly situated, their lordships well knew that they would not suffer a bill of Divorce to be introduced to their House in consequence of any fault that might have been committed under such circumstances. He would assert, that Her Majesty had been placed in a situation, in which no individual throughout the country, from the highest to the lowest, ought to have been placed. Even admitting the charge to be true (and this he did merely for the sake of argument, for of the charges themselves he knew nothing), admitting them to be correct to the full extent to which they were insinuated, not directly made—still he felt that, under the peculiar circumstances of this extraordinary case, it would have been better not to have made them public. It would have been well, he thought, if ministers had suffered the Alps and the Appenines, the boundaries of distant realms, and the wide extent of seas and oceans, to throw a thick veil over those events which they had so eagerly brought forward. What they had done tended only to disturb the public peace—to injure the feelings of the country—to disgust every individual in the empire—and to excite that irritation of mind which could not exist without endangering the safety of the state.—Under these circumstances, he thought that the whole of these proceedings were most objectionable—that they were calculated to divide and to distract the country. The bill was founded on a fictitious opinion, that the public had a deep interest in this matter; but, instead of having an interest in promoting, they had the strongest interest in repressing this proceeding. But, if their lordships thought contrary to his opinion, that this inquiry should be continued, he certainly would contend that the bill now before them was not the preferable mode of effecting that object. It appeared to him that they had no right to go into evidence on the allegations contained in the bill then before the House. The bill, instead of pointing out some clearly defined and specific acts of guilt, some proceeding of a criminal nature, commenced with a long article of accusation, not one word of which pointed at a tangible charge. It was gravely stated as a matter of offence, that a foreigner, who filled an humble situation, had been promoted! Was nothing of the kind ever known in this country? Were none honoured with promotion here but persons of high birth? Was England the country in which the conferring distinction on an individual of worth was to be brought forward as matter of criminal charge? Had no person si-

milarly situated been ever promoted here? Had not individuals, originally occupied in an humble manner in this country, sometimes possessed the confidence of men of high rank, who, with all their power and influence, had assisted in raising the fortunes of those individuals? If this were admitted (and, constituted as that country was, it must be admitted) then he argued, that this point of charge was one on which they had no right to go into evidence. The only charge they had any right to consider was a sort of make-weight at the end of the bill, where an adulterous intercourse was spoken of, but not in distinct and definite terms. This if made clearly and distinctly, would be a charge of very considerable magnitude. But those who brought it forward seemed, by the way in which it was introduced, to have shrunk from the task. If it were said that the charge of adultery could not be proved, but that conduct little short of convicted adultery could be proved, he would then put it to the ministers of the church and those of the law who heard him, to say, if they ever knew any other grounds upon which a divorce had been allowed, than that of adultery proved in the very fact? But if even that could be proved, still, he conceived, there was no necessity for going into the investigation which was wholly uncalled for. On the subject of Her Majesty's criminality he would offer no opinion, because he had not even a shadow of ground by which he might be enabled to decide. He, however, cherished the strong feeling which was prevalent in every part of the country, that this was a question the agitation of which could produce no public good. It was clear that the House of Commons participated in that feeling, since they had declared, that, whichever way it might ultimately be decided, the proceeding would be "injurious to the best interests of the empire." If they continued in this course they would excite and alarm the public feeling, without any sufficient public motive: and he could not suppose that any private motive could exist of so much weight as to justify so extraordinary a proceeding. These were the grounds on which he objected to this measure altogether—grounds which he would have previously stated, had circumstances permitted, and which now induced him to oppose the motion that counsel be called in.

Earl *Grey* said, that during the whole course of his political life, he had never experienced more pain than he felt in delivering his sentiments on this occasion. He was the more anxious to address their lordships in the present stage of the proceedings, because he wished to state the reasons which had induced him to vote against his noble friend (the duke of Leinster), on a question that had been recently decided; and he was extremely glad that the noble lord who had just sat down had given him an opportunity to explain the motives which had led him so to vote. He agreed in all the objections the noble lord had urged against the general principle on which bills of pains and penalties were founded. But the question which had just been decided was, in a manner, brought before them by surprise. Their lordships had been called on, without any argument being adduced, without any reason being stated, to show the grounds on which they ought to adopt the proposition, to rescind an order that had been acquiesced in after grave debate and serious deliberation. It was impossible for him, under these circumstances, in the fair performance of that duty which he owed to the House, to agree to a motion which would have the effect of making their lordships contradict their proceedings, and deny the propriety of their previous conduct, without any proper motive or any just reason being assigned. It was on this ground that he voted with the majority a few minutes before. With all the difficulties pressing on his mind which necessarily arose from the nature of such a measure, he could not concur in the opinion of his noble friend who had opened the debate, when he condemned altogether bills of this description. His noble friend described them as *ex-post facto* laws, contrary to the usual rules and principles of justice. But he must maintain this principle, supported on the ground of parliamentary law, and bottomed on the constitution of the country—that on all occasions, when a great state necessity, or a matter of great state expediency, existed, parliament were vested with extraordinary powers, and it became their duty to exercise these extraordinary powers in order to procure that remedy, commensurate with such state necessity or expediency, which no proceeding in a court of law could afford. Therefore, when a bill of pains and penalties was brought before the House, if any state necessity or expediency could be proved, he would not object to it; but if that necessity or expediency

were not clearly pointed out, then, he conceived, the reasoning of his noble friend was perfectly applicable to the case. And here he felt himself under considerable difficulty and embarrassment. His noble friend had asked what public advantage could be derived from the inquiry? He went further than that: he stated, not only that no advantage could be derived from it, but that it was likely to produce great public mischief. If their lordships now stood in a different situation—if no measure had been yet proposed to them—if he had been a confidential adviser of the Crown, and consulted as to the expediency or policy of introducing such a bill;—in that case, all his noble friend had stated would have had great weight, and must have been considered as matter of deep importance. He certainly felt the force of the personal application which his noble friend had made to ministers, when he stated that they were willing to give to the Queen a great and splendid establishment, that they were ready to direct our ministers abroad to treat her with proper respect, and to cause her to be acknowledged Queen of these realms by foreign powers [Here the earl of Liverpool indicated his dissent]. The noble earl seemed to dissent from the accuracy of this statement, and he undoubtedly did not wish to infer any thing from the proceedings but what was perfectly correct. He believed the sum of the offer made to her Majesty was, that provided she consented not to come to this country she should be allowed 50,000*l.* a-year; directions should be given to our ministers to treat her with proper respect; and that her legal title as Queen should be recognized in any country abroad where she might choose to reside. Now, when so much was admitted, he could not understand how the single circumstance of her majesty being brought to England could operate so strongly on the minds of ministers, as to make them think it necessary to introduce this bill of Pains and Penalties. This was the great objection of his noble friend. Why had they determined to resort to such a measure, when they offered, on the terms stated, to relinquish all proceedings? This, however, was a circumstance that only concerned them. The House had to consider what they were to do in the situation in which they now stood. What was that situation? Charges against the queen of England were brought before their lordships, which, if they were proved, must degrade her for ever. With respect to her guilt or innocence, he would give no opinion whatsoever. He came to do his duty as a peer of parliament, without any earthly consideration to warp or bias his mind. He neither came to support the cause of the king nor of the queen, but he entered that House with a strong desire and firm determination to do justice. He had before him the queen of England charged with crimes which, if they could be proved, rendered her unfit and unworthy to be placed in that high situation. When his noble friend asked, what state necessity existed for this measure? he would answer, this was the necessity—he was placed with this alternative before him, either to proceed in some way or other to investigate the charges brought against the queen, or else to consent to raise her to the high dignity, and rank, and pre-eminence, which belonged to that exalted situation, while this imputation rested on her character, unheard and unanswered. When he was placed in that alternative—by whom he knew not, he meant not to blame any person—the course appeared to him to be plain and open. All that his noble friend had said would have been grave matter of consideration before the proceeding had arrived at this stage; but the subject being brought substantively before them, he would not be guilty of such a pusillanimous abandonment of his duty as to shrink from the hearing of this charge. The question then was, whether the best mode of proceeding was by a bill like the present—a bill of pains and penalties? He had formerly stated the general objections he entertained against such a measure; but consistently with the doctrine he had just laid down, he must admit, that, if no course of proceeding known to the law presented itself, the present was a proper course to be adopted. Before, however, he would agree to that proceeding, he must be fully satisfied that no other could be pointed out. They were told, that the imputed offence could not be prosecuted in any other way, because, under the peculiar circumstances of the case, it did not amount to the crime of high treason. He certainly felt all the difficulties he ought to feel in expressing any doubt or hesitation with respect to a question on which so learned an individual as the noble lord on the woolsack had pronounced almost a decided opinion. If he under-

stood the learned lord rightly, his objection to proceeding judicially against the queen was twofold. In the first place, he doubted the received construction of the statute of Edward 3rd; and secondly, he argued, that even if this received construction were the true one, which supposed that the clause relative to the violation of the queen made it high treason on her part, if she consented, as well as on that of the individual who committed the act—that still the alleged adultery being committed abroad, by a person who owed no allegiance to the Crown of England, that circumstance exempted the queen from the operation of the statute. Now, with respect to the first of these points, the learned lord himself had stated, that during the course of a long professional life, the early part devoted to the study, the latter to the administration of the law, with all his deep application, with all his acuteness of mind, with those habits of reflection which prevented him from deciding suddenly on any question, having found all the law-writers agreed on the truth of this construction, it never till the present moment entered his thought to entertain any doubt on its validity. He was sure the learned lord would not attempt to raise a doubt that he did not conscientiously and honestly feel; but he must say that a doubt which had not arisen until the particular pressure of the moment called it forth was not entitled to the same degree of weight and credit, as would be due to that which was produced by mature reflection; and as the learned lord did nothing more than doubt, he conceived they ought to satisfy themselves, before they proceeded further with this important business, whether the construction of the law to which he had adverted was a sound construction or not. Every writer on this question that he had been able to consult, and he believed every writer without exception, held this construction to be good. Lord Coke declared, that the crime was equal in the man and the woman. Sir M. Hale, sir John Hawkins, and Mr. Justice Blackstone, were all, without doubt or exception, of the same opinion. The learned lord had, however, started doubts on this point; and therefore they ought to be put in possession of the opinions of the judges of the land, who had been very properly summoned to attend their lordships on this occasion. He would put it to them in the first place, whether, under the statute of Edward 3rd, the crime of adultery, with which the queen was charged, could be considered as high treason? And here he must observe, that, to satisfy him of the truth of the accusation, it would be necessary to produce the clearest, the most positive, the most overwhelming and irresistible evidence of the act of adultery. No general statements, no levity of conduct, which, whatever they might think of it in private, could not justify a judicial proceeding in that House, would be sufficient to convince him.—The second point on which he wished to have the opinion of the Judges was, that on which the learned lord had stated his sentiments more decidedly. He held, that an individual being a foreigner, and owing no allegiance to the Crown of this realm, he could not be considered as committing treason; and consequently, that the queen was exempted from the penalties of the statute of Edward. In cases of felony he was aware, that, generally, the accessories could not be proceeded against unless it was in common with the principal, or after his conviction. Accessories must be either before or after the fact: they must either counsel, aid, or assist, in the execution of a certain purpose, or, after its completion, comfort and protect those by whom it had been effected. Now, what he wished to know was, whether, if this were a simple felony, the queen would be considered an accessory or a principal. It appeared to him, on every principle of law, that she must be viewed in the latter capacity, if it were a case of simple felony. There were principals in the first and second degree. Those of the latter class were persons present at, and aiding in, the commission of any particular crime. Such individuals might be proceeded against, not as accessories before or after the fact, but as principals in the second degree, and might be arraigned and proceeded against in the absence of the chief offender. Thus, if an individual incited another to administer poison, he would be prosecuted as a principal, and not as an accessory. He stated this, not as analogous to the present proceeding but to show, that a person, who, under general circumstances, would only be considered an accessory, might, in particular cases, be selected as a principal. Having laid down this doctrine, he would suppose a person to have, by false information, enticed the wife of a sovereign

to a place, for the purpose of giving an opportunity for the violation of her person by another. The individual so misleading her would, he conceived, be an accessory before the fact; but suppose the crime of a forcible violation of her person to have been perpetrated by a foreigner abroad, and supposing that an Englishman assisted in that crime, by holding her while it was committed, would not that individual stand in the situation of a principal? Where the act was voluntary, both the man and woman were held to be equally guilty in the eye of the law. The woman must be aiding and assisting in the commission of the alleged crime; and in his opinion the circumstance of the offence being effected abroad, and with a foreigner, did not exempt her from the operation of the statute of Edward 3rd, but placed her in the situation of a principal in the second degree. As he felt a strong doubt on his mind on this point, he wished the following question to be also put to the judges:—Whether, if a foreigner, owing no allegiance to the Crown, in a foreign country, violates the wife of the king, or of his eldest son, and she consents to such violation, she thereby commits high treason within the meaning and the true construction of the statute 25th Edward 3rd? God forbid it should be supposed that he wished to call for that extent of punishment which the statute of Edward 3rd provided, and from which the mild spirit of the present age would shrink! But if the judges answered the question in the affirmative, they then ought to dismiss this bill, for the introduction of which no plea but that of necessity was advanced. They might then bring in another bill, which would be beneficial to all parties, by which the law of high treason, as it respected the punishment of adultery, should be amended, awarding to the commission of that crime the penalties of degradation and divorce. Such a law would give to the accused party the advantage of a distinct specification of the charge, the benefit of a list of the witnesses, and all those other immunities which the law so humanely provided in cases of high treason. If, on the other hand, the answer of the judges should be, that there was no known law by which, under all the circumstances, the offence could be prosecuted—if they were of opinion that the law of treason did not apply to this case, and that the whole course of authorities on this subject had been in error—he would then be reduced to the alternative he had stated, and he must, however reluctantly, proceed with the present bill, and act judicially on the evidence brought before him, and which he was sure their lordships would look to most minutely. He said this, because he would not sanction or countenance any of those censures or attacks that had been made on the House of Peers. For though they might be mistaken in their proceedings—though he thought they were wrong in refusing some of the propositions that had been made to them, in not, for instance, granting a specification of those charges—still he believed in his conscience, that if the case proceeded, substantial justice would be done to all parties.

The *Lord Chancellor* felt some anxiety to explain his notion of the law on this subject. The noble earl had stated his propositions with great clearness, but nothing the noble earl had offered had shaken the opinion he formerly expressed. He would now distinctly avow that he had adopted his reasoning on this subject from reasoning deduced from the text-writers, and he had always felt a very considerable doubt whether they were correct in pushing the doctrine of constructive treason to the extent they had done. The words of the statute of Edward were—"If any man shall violate the wife of our eldest son, he shall be deemed guilty of treason; and if she consent to that violation, she shall be deemed guilty of treason also." Before he proceeded farther he wished to say, that the duty he was called on to perform was more painful to him than any ever imposed on him in the course of his life; but, when called on to give his opinion on a point of law, he would do so, however painful the task might be. The statute said—if the wife consented to the adultery, it would be, on her part, high treason; and then came the question, whether, under any possible exposition of the words of the act, it could be said, that a man who violated the wife of the king's eldest son committed no crime, but that the female did? Yet this position must be maintained, if the noble earl's construction of the law were correct; because a foreigner, owing no allegiance to the Crown of this realm, did not, by the act of adultery, commit an offence against the state. To constitute criminality in the woman, it was necessary that the man, who was the

principal agent, should also be criminal. It was quite impossible that the person giving consent to an act which was not in itself treasonable could be considered guilty of treason. It could not surely be said, that a foreigner, in violating the wife of the king's eldest son, in a foreign country, came within the law of Edward 3. The noble earl said, if an Englishman assisted a foreigner in the commission of this crime, he would be guilty of treason. He denied this doctrine. He might, indeed, be guilty of scandalous misconduct, and a gross breach of morality; but if the principal were not guilty of treason, it was impossible that those assisting in the commission of the offence could, in the eye of the law, be held accountable for that crime.

The Earl of *Liverpool* said, that nothing could be more fair or candid, than the whole statement of the noble earl. Although he differed from him on particular points, he felt not the slightest objection to any one of the general principles he had laid down. Every party concerned in this business would have full and ample justice done to them—a sentiment which he thought most properly introduced by the noble earl in the course of his speech. He hoped, if this question was brought to their lordships' bar in the manner now intended, that every peer in the House would consider it as a judicial proceeding, and treat it in that light alone. On other points a political bias might sometimes influence the decisions of individuals; but the present was a question on which no political bias should be suffered to influence the mind of any man. No individual, whether privately or politically connected with him, would hurt his feelings if he voted against him on this occasion. In doing so, that individual would only discharge his duty as a peer and a man, by pursuing the course his conscience pointed out to him. The objections made by the noble earl (Carnarvon) appeared to him extremely ill-timed. The proper period for offering them would have been before the adjournment of their lordships, and previously to their having fixed the second reading of the bill for the 17th of August; because, if it were thought necessary to get rid of this measure altogether, that necessity should have been stated at the earliest possible period. The present was not a time to review the conduct of his majesty's government. This important question he would, however, have no difficulty in explaining and vindicating his conduct and that of his colleagues, when the subject came fairly before the House. The question now was, what was best to be done in this stage of the business? What was most consistent with the ends of substantial justice—with the preservation of public tranquillity—with the interests of the illustrious individual whose case was under consideration—and with the general safety and security of the country? It would be unfair if he did not state, that, from the beginning, he saw so many difficulties surrounding every proceeding which might be adopted on this subject, that he felt it would be most desirable to avoid its introduction if possible; and he thought it might have been avoided if her majesty had deemed it proper to remain abroad. He did not therefore feel ashamed, nor did he, in the slightest degree regret, that certain propositions had been made to her majesty for the purpose of effecting that object. But he did undoubtedly feel, when he was in possession of those charges, and when her majesty came to this country, that but one of two things could be done —either she must be allowed to enjoy all the rights, privileges, and prerogatives, and receive all the homage of queen, or that those charges must be brought forward against her, that they might be settled in one way or another. He had the concurrence of the noble earl in this opinion that, when the government were in possession of such charges, it was their duty to bring them to some issue, instead of allowing her majesty, whether the charges were well or ill founded, to enjoy her immunities and privileges as queen.

Earl *Grey* said, in explanation, that his observation was, that it was originally a matter of consideration for his majesty's government, whether they would or would not bring those charges forward; but, having laid them before their lordships, it was impossible for them not to enter on the investigation.

The Earl of *Liverpool* was perfectly satisfied with the noble earl's explanation. His opinion was, that when ministers, from a sense of duty, determined to bring this question forward, no results could be produced satisfactory either to the illustrious individual, or in unison with the peace of the country, except by proceeding with the present inquiry. That being the view which ministers took of the subject, the bill of pains and penalties had

been laid on their lordships' table, and the second reading was fixed for that day, in order that counsel might be called in to prove on the one hand the matters contained in the preamble, and, on the other, to allow the illustrious personage to whom the bill related to rebut the allegations. No possible good could arise from postponing the measure. On the contrary, it would be productive of every possible inconvenience. If their lordships saw another course of proceeding which they conceived preferable, let them have recourse to it; but they ought to be quite sure, that the new course was really preferable, before they did away with a proceeding which promised substantial justice, and which was evidently the most speedy mode of bringing the question to an issue. He was not disposed to dispute with the noble earl the general view he had taken of bills of pains and penalties. He admitted that they were great evils, and only to be resorted to in cases of extreme necessity. If there had been any mode of trial pointed out, by which the present proceeding could have been avoided, he would willingly have adopted it, provided it was clearly proved to be a direct and preferable course. It was quite clear that this case could not be brought under the statute of Edward 3rd; and he had no hesitation in saying, that where a doubt existed with respect to the operation of that statute, it would have been wholly improper in the executive government to have proceeded under it, since, on a mere technical point, the whole of the proceedings might be set aside. If an indictment or an impeachment for high treason had been resorted to, and all the facts were not most clearly and minutely proved, the counsel for the defence would have made that objection; and if the judge decided that it was a good one, the country would feel all the inconvenience that must result from an abortive proceeding which had not failed from want of substantial evidence, nor from any defect with reference to the merits of the case, but merely in consequence of a technical objection. The present was, therefore, in his opinion, the fittest course of proceeding, for their lordships to adopt. They might, indeed, have proceeded by impeachment; but every day's reflection led him to think that the present course was the preferable one. Adultery was not a crime by the common law of the land; but if it were even proved, how could the person accused be found guilty of high crimes and misdemeanors which would be charged in the articles of an impeachment, because she had committed that offence? He knew that there was some doubt or difficulty on this particular point; but the existence of such a doubt was a sufficient reason for taking a different course. Under an impeachment the queen would be tried for high crimes and misdemeanors, while the offence charged against her was adultery, which, in his opinion, would not come within the terms of such impeachment. It would be put to the judges, whether adultery, in that case, could be visited as a crime, if it were not to be high treason? Now, if they answered as he thought they would, that it was no crime unless treason, the proceeding would fall to the ground. He knew their lordships might come to a different decision. On Sacheverell's trial certain questions were put to the judges, as to the nature and character of particular papers. The judges in that case came to one decision, and their lordships to another; but he would ask their lordships, could they do so now, without exciting a degree of prejudice that would be fatal to all inquiry, and make a most unfavourable impression on the public mind? But the noble earl had himself allowed, that a special law must be devised to meet the peculiarities of this case. Then he would ask the noble earl, whether all the objections—at least the popular or inflammatory objections—that were raised against the present measure, would not also be levelled at the proceeding recommended by him?—Another point should also be considered. This measure was now in progress before them. They were now about to enter on a judicial investigation. Was there any thing in such a course contrary to the principles of justice, or to the sound dictates of law? Was it not better to go on with this measure, rather than alter their course when many of the objections to it had been removed? He denied that the present proceeding was entirely without precedent. It would undoubtedly bear with great severity on the illustrious personage in question: but a similar degree of severity was experienced in other cases. Instances occurred where the wives of peers were brought before the House in the subject-matter of bills of divorce. They were deprived of their rights and dignities—they were degraded; and of course they felt the

degradation as severely as her majesty would feel hers, if the inquiry terminated unfavourably. This then, was not *ex post facto* law any more than the bills to which he had alluded. He knew there was considerable difference between a common divorce bill and that now before them. That, however, which they were now considering, pointed at two distinct circumstances. It looked towards an injury to the state as well as to an individual. This, however, did not militate against its propriety; because, if by a common divorce bill, they degraded one individual for the benefit of another, how much more necessary was it to pursue the same course when it was of importance to the morals and safety of the state? Notwithstanding this, he should not be ashamed to retrace his steps, if such a course could contribute to the advantage of the accused and the ends of public justice: but to such an argument he could not give his assent. If the questions proposed by the noble earl were intended solely to obtain the opinion of the judges on the point, he should not object to them; but if their object was, to effect a suspension of the proceedings, he should decidedly oppose them, considering that delay was calculated to produce great public injury.

The Marquis of *Lansdowne* wished to state the reasons why he voted against the motion of the duke of Leinster. He could not go the length of some noble lords in that House, and of many individuals out of doors, who were of opinion that, under no circumstances, ought a bill of pains and penalties to be introduced to parliament. With the deepest sense of all the inconveniences and difficulties that were attached to such a proceeding, he yet felt that the House should not part with a power which, when judiciously applied, might effect the salvation of the state. There was but one ground upon which the House ought for a moment to have entertained the bill now before them; there was but one ground upon which he had been induced for a moment to allow that bill to remain upon the table: that ground was the allegation of those who, upon their responsibility, introduced the bill, that there were no other means of considering a crime which they, the promoters of the bill, declared to have been committed, and the punishment of which was essential to the safety of the country. Disapproving of all the preliminary proceedings, which had only tended to weaken the bill, and to create a prejudice in the public mind against it, still he had felt it due to persons taking upon themselves so heavy a responsibility, to listen to the causes by which (according to their statement) the House was driven to the extreme remedy adopted. Certainly, however, he had understood that their lordships were to pause for the opinion of the judges. Great inconvenience might arise, and would arise, either from a delay of the present proceedings, or from an alteration in their form; but much greater disadvantage would result from persevering in a course admitted upon all hands to be objectionable; and yet the noble lord thought it better to go on with this objectionable system, than to take the chance of waiting for a short time in the hope of arriving at a mode of proceeding more favourable to justice and to the character of the House, and far more congenial to the feelings of the country. It would scarcely be disputed by the learned lord upon the woolsack, or by any noble lord, that ground for doubt existed upon the point in question. He could attach no value to his own opinion; but he did not speak lightly nor unguardedly when he said, that among very high authorities—he should not err, perhaps, if he said among the highest authorities—there existed not only doubt, but an opinion directly contrary to that stated by the learned lord—an opinion agreeing with that of Mr. Justice Forster, that the impossibility, in such a case, of getting at the principal did not prevent the accessory from being reached, for the purposes of punishment. Certainly, if he did consent to go into the present inquiry, it would be with a determination to seize the very first occasion of putting it into a shape more reconcileable to the principles of the constitution, and of relieving the House and the public from the cruel necessity of recurring, upon such a question—a question involving the character of a queen, and, perhaps, the succession to a Crown—to principles pregnant with danger and with evil. Recollecting that this was the first occasion upon which the House had been attended by the judges, and that their lordships had now an opportunity of acquiring that information, without which it was impossible to decide upon the absolute necessity of the present mode of proceeding, he should certainly support the motion of his noble friend.

The Earl of *Carnarvon* said, that after the vote which the House had originally come to, he could scarcely hope to offer any thing which would have the effect of changing their opinion; but, for himself, he would cheerfully adopt any course which would be likely to put an end to the present strange and most anomalous proceeding. It had been said, that this was not a time, after a charge was distinctly made, to alter the mode of proceeding; but he did not see that any more distinct charge was before the House now than had been presented in the commencement of the business; and it should be recollected, that, upon every part of the process of a bill, upon every succeeding stage, parliament had reserved to itself the privilege of consideration. There was one circumstance, however, upon which he must confess himself at a loss. His noble friend (earl Grey) had said, that he would not vote for a bill of pains and penalties, except upon a charge of direct adultery. Now, he would take upon himself to say, that no such thing as a direct charge of adultery was to be found from the beginning to the end of the present bill. His lordship concluded by declaring his readiness to wave his former suggestion, and to concur in any proposal which might put an end to the present course—a course which promised nothing but pure and unqualified evil.

Earl *Grey*, in explanation, conceived that, although the crime of adultery was not stated in so many words, yet it was most distinctly charged under the general terms of the bill.

The question for taking, forthwith, the opinion of the judges, was then put and carried. The judges accordingly retired; and, during their absence,

The Earl of Liverpool proposed that the House should agree upon some plan which might at all events, after another day, supersede the necessity of calling over the names of the members—a proceeding which occupied, unnecessarily, nearly three quarters of an hour. The mode suggested by his lordship, and upon which some desultory conversation took place, was that every peer, on coming into the House, should write his name, with the hour of his arrival, in a book kept in the anti-chamber for that purpose. Members to be deemed absent whose names should not appear. After a lapse of about twenty minutes the Judges returned to the House, when

The Lord Chief Justice *Abbott* delivered their united opinion to the following effect:—"The judges have conferred together upon the question proposed to them by the House, Whether, if a foreigner, owing no allegiance to the Crown of England, violates, in a foreign country, the wife of the king's eldest son, and she consents thereto, she commits high treason, within the meaning of the act of the 25th of Edward 3rd? And we are of opinion that such an individual, under such circumstances, does not commit high treason, within the meaning of that act." This opinion, his lordship continued, was grounded upon the language of that statute of Edward 3rd, which declared it to be treason for any man to violate the wife of the king, the wife of the king's eldest son, &c.; the judges holding that, unless there were a man who could be legally charged with such a violation—the charge being that he did the act against his allegiance—it could not be said that treason had been committed. An act done by a foreigner, therefore, owing no allegiance to the Crown, could not amount to that crime.

It was then ordered, that the counsel be called in.

The Marquis of *Lansdowne* said, that before the counsel were called in, there was one circumstance which he did not think should be passed over in silence. He understood that among the counsel who were to appear before them, there were no less than five members of the other House of Parliament. It appeared by the votes of the other House, that those learned gentlemen were permitted to attend at their lordships bar. He by no means wished to oppose that step. On the contrary, he had no doubt there were good and sufficient reasons for allowing those gentlemen to appear. There were certainly strong reasons why the queen should not be deprived of the legal assistance of particular persons, nor the Crown of the assistance of the attorney and solicitor-general; but still he thought the privilege was not to be allowed without a protest against its being drawn into general practice, if any general practice could be founded on that anomalous proceeding. Because, as it was possible that measures of a judicial character might hereafter be taken in the other House of Parliament, he was anxious that, to the many necessary and unavoidable anomalies which were inseparable from this pro-

ceeding, this anomaly, at least, should not be added, that individuals who were members of the other House of Parliament should be allowed to act as advocates in this.

The motion, that counsel be called in, was then put and carried. Counsel were accordingly called in; and the King's Advocate, Mr. Attorney General, Mr. Solicitor General, Dr. Adams, and Mr. Parke appearing as counsel in support of the Bill; and Mr. Brougham Attorney General for the Queen, Mr. Denman Solicitor General for the Queen, Dr. Lushington, Mr. John Williams, Mr. Tindal, and Mr. Wilde appearing as Counsel on behalf of her Majesty,

The Duke of *Hamilton* requested to know by what authority the attorney-general stood in that place?—on whose part he appeared?—and by whom he had been instructed to appear?

The *Attorney General* said, he attended in consequence of an order of their lordships, which had been served upon him by the gentleman usher of the Black Rod—an order by which it was declared that the House would allow counsel to be heard before the second reading of the bill. In obedience to that order, he had considered it his duty either to appear personally, or to depute some other counsel to appear, in support of the bill, and to produce the evidence which was to be laid before the House.

The Duke of *Hamilton* begged to repeat his second question: by whom had the attorney-general been instructed to appear upon the present occasion? He wished to know from whom that gentleman's instructions had proceeded.

The *Attorney General*, as he had already taken the liberty to state to the House, had considered himself bound to appear by the order of their lordships, or to depute other counsel in his stead. In consequence of that order, by which he was required to produce witnesses in support of the bill, he had taken that which appeared to him to be the course immediately open—he had applied for information to those sources from which he thought it most likely to be obtained. He had understood that information upon the subject had been communicated to the secretary of state, and had accordingly applied to that department.

The Duke of *Hamilton* said, he was certainly anxious to know who was the prosecutor upon the present occasion; and if he understood the statement of the attorney-general, it appeared that the secretary of state was the prosecutor.

Lord *Holland* said, that the attorney-general had stated, that he attended there, in consequence of the instructions which he had received from the House itself.

The Earl of *Liverpool* said, he understood that the attorney-general appeared in consequence of an order received from the House. He had taken those steps which to him seemed best for the purpose of obtaining information. He had applied for information to the secretary of state, and with such information as had been obtained, he now appeared for the purpose of opening the case.

Mr. *Brougham* then addressed their lordships to the following effect:—My lords, I have the honour to attend at your lordships bar on behalf of her majesty the queen. I am anxious not to incur the most distant risk of interrupting this court, or of interposing between what any of your lordships may deem fit to say; and I certainly wish to be stopped the moment I appear to be interrupting your lordships. My learned friend, the attorney-general, does not appear to know very exactly in what capacity he attends here. He has said, that a notification has been served upon him by order of your lordships, but in what capacity he attends at your lordships bar, does not very distinctly appear. Whatever uncertainty, however, may exist in the mind of his majesty's attorney-general, or however equivocal the capacity in which he attends here, I and my learned friends have the honour of attending at your lordships bar, distinctly and clearly on behalf of the Queen. The last time I had the honour of standing in this place and in this capacity, your lordships deemed it proper to delay hearing, till a subsequent stage of the proceedings, the arguments which I humbly ventured to tender to your lordships' consideration against the principle of the bill. By the order of your lordships, made on the 6th of July, her Majesty's counsel were informed, that in the observations which they were then permitted to make, they would be confined to the mode of proceeding upon the bill which had been read a first time, and to the time or times of proceeding thereupon.' Your lordships will recollect, that I then ventured, not indeed to complain, but to express my extreme regret, that your lordships did not think fit to

allow me a greater latitude of observation. Your lordships, however, intimated, that all that latitude of observation should be reserved to a subsequent stage of the proceedings, and that upon the question for the second reading of the bill, I should be enabled to object to the principle of the bill altogether. I humbly conceive that this period has now arrived, and that, independently of any evidence which may be produced as to the facts—before any evidence is gone into as to the allegations of those facts—laying those allegations out of view for the present, or even admitting them to be true, for argument's sake, all of which, if it were necessary, I deny, as solemnly now as upon all former occasions, to have any colour or foundation whatever,—I still demur to the principle of the bill, upon grounds of which the force cannot be weakened or affected by any proof, that can be offered as to the truth of the facts. If I were called upon to show, that I am sanctioned by precedent in objecting to the principle of this bill—although I admit that the present proceeding has not the remotest resemblance to any which have preceded it,—I would remind your lordships of the case of the duke and duchess of Norfolk in 1692. In that case, it appears from your lordships' Journals, that proceedings took place of the following nature:—First, the duchess of Norfolk presented a petition to the House of Lords, not stating that a bill had been brought in, or that a copy of it had been served upon her, or even that she had received regular notice of the intention to bring in such a bill—but stating only that she had been informed that the duke of Norfolk had offered a bill, and humbly praying to be heard before the bill was received. The House having taken this petition into consideration, made an order on the 8th of Jan. 1692, that her grace should have notice that the bill had been offered, but not received, and that she should be heard by her counsel on the following Tuesday, as to what she had to object against receiving the said bill. Your lordships will observe, that counsel were to be heard even against receiving the bill. I have been told before, that such a thing was utterly impracticable, and I have been put down with something approaching to scorn, when I presumed to suggest, that in behalf of any party, however menaced, counsel could be heard against the first reading of a bill of pains and penalties. I cannot now ask to be heard against the receiving of this bill, nor even against the first reading of the bill, for the decision of your lordships has precluded me from asking what you would have been warranted by precedent in conceding. But how do I now stand? The duchess of Norfolk, let it be recollected, was heard over and over again. She was heard against receiving the bill, she was heard against the first reading of the bill, and she was twice heard on the second reading upon the point of principle, and upon the point of evidence. The next cases to which I would refer, if I am not unnecessarily troubling your lordships, are that of Knight and Burton, in 1698, and lord Anglesea's case in 1700. The case of the duchess of Norfolk, and that of lord Anglesea, were both cases of divorce. I regret, and it is with unfeigned reluctance that I am compelled to make this observation in passing upon the report made by a committee of your lordships—I regret that that committee were not aware of these cases, and that they did not happen to turn to those pages of the Journals which were so german to the matter of inquiry. Lists of witnesses, it will be found, were ordered to be furnished to the persons against whom the proceedings were instituted. I shall be told, perhaps, that the report of the committee refers only to bills of pains and penalties, and that these are cases of divorce. In two cases, however, to which this objection does not apply, and which were not inserted in the report, a list of witnesses was allowed. It is now too late to ask for my illustrious client, what I have shown I should have been sanctioned by precedent in asking, but I trust your lordships will allow me to pray to be heard in this stage of the proceeding against the principle of the bill.

Counsel being here ordered to withdraw, they, as is usual, retired a few paces, and then returned to the bar.

The Earl of *Liverpool* said the regular course would be to call upon his majesty's attorney-general to open the case by producing evidence at their lordships' bar, and then to call upon the counsel on the part of Her Majesty, to answer the case by endeavouring to repel the evidence, and over and above all to object, if they thought fit, to the principle of the bill. This would be the regular course of proceeding; but if he understood the application of the counsel, it was to be heard

upon the principle of the bill, independently of the bill, or assuming the accusation to be made good. He could not help thinking that this was an inconvenient stage of the proceeding for such an application; but he should wish to take the sense of noble lords upon the question before he gave any decided opinion upon it.

The *Lord Chancellor* said, that unless some noble lord made a motion, the attorney-general must of course proceed. According to the modern course of proceeding, it was not usual to discuss the principle of the bill before the evidence was gone into. The reason of this was obvious, because if the facts were not proved, there would be no occasion to go into the principle at all.

Lord *Kenyon* said, that many noble lords thought as he did, that even if all the facts alleged against Her Majesty were proved, this bill ought not to pass, the House would have great reason to congratulate itself, if any arguments could be brought forward which would avert these painful disclosures. He repeated, that to whatever extent the allegations might be proved, the bill ought not to pass. Upon these grounds, he trusted their lordships would be ready to hear the arguments of the very able counsel who were now attending at their bar on behalf of Her Majesty, and he should move, therefore, that the counsel be allowed to proceed.

The Earl of *Liverpool* conceived that their lordships had already decided this question. They had come to a resolution to refer a certain question to the judges, with a view, if any real difficulty presented itself, of pursuing some other course. They had heard the opinion of those learned persons, and, according to that opinion, the House might regularly proceed with the present bill. The whole of this question, therefore, resolved itself into one of convenience, and they had only to decide, whether the present time would be more or less convenient than after the evidence was gone through, for hearing arguments directed against the principle of the measure. The ordinary proceeding undoubtedly was, to hear the attorney-general open his case and adduce his evidence; after which it would be competent to counsel on the other side to urge any objection against the form or the substance of the measure.

The Marquis of *Lansdowne* agreed with the noble earl, that the question immediately before them was one of convenience; and he also thought the noble earl had correctly described the usual course to be, that of allowing the attorney-general to open his case, and to reserve a subsequent opportunity to counsel on the other side of stating their general as well as particular objections. They had to consider, however, how far the ordinary rule applied to the present case; for it would evidently be a great convenience to prevent the disclosure of the facts, if this could be done consistently with the ends of justice. On this ground, he thought the learned counsel might fairly be allowed the option of addressing himself now, or at a future period, against the principle of the bill. He presumed that he would not have two opportunities, and if he availed himself of the immediate one, it was possible that their lordships might be spared the pain of going at all into the evidence, and might at the same time guard against an unnecessary loss of time.

The question was then carried without a division, and it was communicated to Her Majesty's counsel, that they were at liberty to urge their objections to the principle of the bill, either at that time, or after the evidence was concluded.

The Earl of *Lauderdale* was still of opinion, that this resolution of their lordships' was open to many objections. Evidence might be adduced in the progress of the inquiry on which the Queen's counsel might have to found material arguments against the principle of the measure. They would, notwithstanding, by the terms of this resolution, be precluded from so doing, if they urged any objections of that nature at present. This appeared to him to be a complete deviation from the ordinary and established mode of proceeding.

Earl *Grey* thought the course to be pursued might be fairly left to the discretion of the learned counsel.

The Earl of *Lauderdale* observed, that this was an instance of the court making a bargain with counsel as to the manner in which they should conduct their cause; and this, he believed, was without any precedent in a judicial inquiry.

The Lord Chancellor having called upon Her Majesty's counsel to make their option,

Mr. *Brougham* said :—I have, in the first place, to apologise to your lord-

ships for not having immediately withdrawn from your lordships' bar in the manner which, as it seems, would have been most agreeable to some of your lordships. Many of your lordships, who are not much in the habit of witnessing judicial proceedings in this House, may not be aware that retiring from the bar is a mere formality, and that it is usual for counsel upon these occasions to retire half a step from the bar, and then to come forward. I mention this with a view of removing any impression, that I was intentionally guilty of the slightest disrespect to your lordships, and because I am aware that there are many even in this House who are ready to misconstrue every thing [Cries of "Order"]. If I understand the terms upon which I shall be permitted to address your lordships, against the principle of the bill, I am to be precluded hereafter from addressing any observations to your lordships, except as to the truth or falsehood of the allegations, which the evidence is meant to support. I shall certainly make my election without one moment's hesitation, and avail myself of the permission to be heard now even upon these terms. I do this with entire satisfaction to my own mind, because I know too well the justice which reigns in this place, not to be perfectly certain, that if, unexpectedly, any thing comes out in the course of the evidence, from which your lordships may find it necessary for the ends of substantial justice to revise your opinion, that opinion will not be considered irrevocable, and I shall not be precluded from again addressing your lordships against the principle of the bill.

My lords, my first objection to this bill is, that it is a private law made for a particular case, and for the punishment of a particular individual. Unhappily, laws of this nature are known in the jurisprudence of this, and of all other countries; but they have never been resorted to in any country, even in the worst of times, without a deep sense of their hateful nature, and of their utter repugnance to every principle of justice. From the earliest times of the Roman code, private laws were known by the name of *privilegia*; and they were divided by Civilians into two classes, one of which was favourable to the object of enactment, the other hostile to him, and distinguished by the name of *privilegium odiosum*. Such was the stigma which jurisconsults, as well acquainted with the force of language as with the value of the principles of justice, have affixed to this species of law, thereby marking to after-times that they deemed it to be a measure of a hateful description, which nothing but absolute necessity could justify. These laws are to be found most frequently in the blackest pages of the Roman annals. They are invariably *ex-post-facto* laws. They first permit the deed to be done, and whether the party is to be deemed innocent or guilty is matter of subsequent inquiry; or rather, after permitting the deed to be done, without any notice or warning to the party accused, they enact that it shall be deemed and taken to be equity. I should be guilty of childish pedantry were I to occupy your lordships' time in reverting to the history of past ages, or in proving that the wisest and best of men deprecated, and even those who were not the best of men, had still the honour to shudder at this most unjustifiable mode of legislation. Suffice it to say, that the history of our own country, even in its worst periods, bears testimony to the detestation in which such measures were held. Without entering into minute details, I will just refer your lordships to the attainders of Mortimer and Arundel, in the reigns of Edward the 2nd and Edward the 3rd, which were measures introduced upon the pressure of a temporary emergency. I will pass over the reign of Henry the 8th that barbarous, detested, and justly detested, monarch; detestable for his unprincipled spoliations, for his heartless cruelty, and for his violation of the tenderest ties, and I will take my stand at a period of a better description, the reign of Charles the 1st and 2nd. Your lordships will probably call to mind the attainder of lord Strafford, the greatest disgrace, even in the worst of times, that ever sullied the purity of either House of Parliament. Your lordships will the rather call to mind the case of the earl of Strafford, because it is cited, and, for aught I know, approved by some of your lordships, in the report of the committee appointed to search for precedents in cases of impeachment. Impeachment, did I say? It would have been comparatively a case of justice had the earl of Strafford been impeached; it would then have been a *quasi*-judicial proceeding, in which, while the principles of justice were violated, the forms would at least have been half preserved. To show to your lordships the sense which our ancestors entertained of this foul act of ini-

quity and injustice, I will read the terms in which they recorded their opinion. No language of mine, or even of the most eloquent of those whom I have now the honour to address, can make so deep an impression upon the judgment as the admirable words of those predecessors of your lordships. After stating that, upon various pretexts, the turbulent party seeing no hopes to effect their unjust designs by any ordinary way of proceeding, they did at last resolve to attempt the destruction of that earl by an act of parliament made for the express purpose, they proceed to rescind, repeal, and reverse this said unjust act, and then to add these memorable words; "And to the end that right be done to the memory of the deceased earl of Strafford aforesaid, be it further enacted, that all records and proceedings of parliament relating to the said attainder, be wholly cancelled, and taken off the file, to the intent the same may not be visible in after ages, to be brought into example to the prejudice of any person whatsoever."* Of this description, substituting only for life, rank the most illustrious, and station the most exalted, privileges the most esteemed among men, and what is higher than all the rest, and dearer than each, every thing that is most valuable to character, feeling and honour, the bill which now lies upon the table of your lordships belongs strictly and even technically to the class which your lordships' predecessors have thus characterised. The reversal of lord Strafford's attainder manifests the manly sense which our ancestors entertained of that abominable measure. It may be regarded as a beacon to warn posterity, as a landmark for after ages, when future princes and future parliaments might be tempted to commit similar acts of injustice.

My lords, I have stated the opinion of your lordships' predecessors in the case of the earl of Strafford, but I will venture to say, that the attainders in the worst of former times, not even excepting any of the attainders of Henry the 8th's wives, were regular, consistent, judicial acts, compared with this. In the first place, nothing illegal is charged against Her Majesty. This I am bound to say, both in consequence of the decision of the judges, and still more upon the face of the whole proceedings, that there was no possibility of proceeding at law. If any act had been committed in violation of the law, I am bound to suppose that the extraordinary proceeding of a bill of Pains and Penalties would not have been resorted to. Nothing illegal has been done—nothing illegal is charged against Her Majesty. This is a most material consideration, to which I humbly crave your lordships' attention. Although no law has been violated, it does not follow that no judicial proceeding could be resorted to; because impeachment is expressly and emphatically provided for the trial of matters not cognisable by the ordinary course of law. I do not mean to say that one class of proceeding is necessarily excluded in the renunciation of the other, but that crimes and misdemeanors which cannot be indicted in the courts of Westminster, are nevertheless cognizable before your lordships by impeachment. In lord Strafford's case, an impeachment had been resorted to, but it was apprehended that it might fail, and a bill of attainder was accordingly commenced in the Lords, while the impeachment was still pending. Why was not impeachment resorted to in the present case? Was the tattered and ragged evidence considered of so desperate a character, that no hope could be entertained of your lordships concurrence in a charge of impeachment? Why were your lordships distrusted? If the papers submitted to the other House of Parliament had been sent up here with a view to impeachment, if managers had been sent up from the other House, they would at any rate have allowed the proceeding to go on. See, my lords, how much we have been deprived of by not adopting this course. If an impeachment had been preferred, the charges would have been specially drawn up with a convenient certainty; we should have been furnished with a list of witnesses, and with all those advantages which belong to a real judicial proceeding. Though I am aware that your lordships have every disposition to conduct this proceeding in the spirit of justice, your lordships will forgive me when I say, that this is not a judicial proceeding. I am prepared to show, as well from the authority of cases decided in this House, as from the recent protests of virtuous minorities, that such acts as the present ought never to be resorted to unless from absolute necessity, either to avert some impending danger from the

* Howell's State Trials, v. 3, p. 1527.

state, or to prevent an absolute failure of justice. In a protest drawn up by lord chancellor Cowper, in 1723, it is said, that nothing short of such an evident necessity, when the preservation of the state plainly requires it, can justify such a proceeding as that now before us.* What, then, is the impelling or over-ruling necessity which can justify the present measure? Is the succession in danger? It has never been even alleged or surmised that the succession can by any possibility be endangered. If Her Majesty had been brought up for trial under the statute Ed. 3rd, though this had been decided to be impossible, and even admitting the allegations against her to be true for the sake of argument, yet when the long separation and the age of the parties were considered, no possible danger could be apprehended to the purity of the royal succession. The want of heirs may be one ground of danger to the succession; but I shall dismiss this without any observation, because no man pretends that the succession is endangered from this cause.

It has been said, that the conduct imputed to Her Majesty has a tendency to degrade the Crown, and the nation with which she is connected, and that that connexion ought therefore to be broken off.—If these charges were brought forward against my client while Princess of Wales, can any one doubt that a divorce must have been sought for in the ordinary way—that all the usual forms upon such an occasion must have been gone through—that the party seeking the divorce must himself have presented a petition to your lordships—and, above all, that he must have come into court with clean hands? But the period when my client was Princess of Wales was allowed to go by. These accusations were delayed until she became queen; and thus care seemed to have been taken to deprive her of the rights of a private subject. I do not, however, say that these rights are gone, but others do, and this extraordinary course of proceeding is resorted to upon the alleged ground of state necessity. Upon this plea it is attempted to build an argument for excluding the Queen from those rights which any other female in the country would, on an analogous occasion, be allowed to exercise without dispute—which could not, under any pretence, be refused to my client, if these proceedings had been instituted against her while she was Princess of Wales. But I contend that Her Majesty should be allowed the same privileges now as formerly, *nunc pro tunc*, as lawyers expressed it. Her Majesty must indeed be, in common equity, entitled to the same rights and means of defence against the attack made in this bill, as if that attack had been made upon her while Princess of Wales.

I now come to another part of the case, and I have to implore your lordships to pause while yet on the threshold of this extraordinary proceeding, and thus avert the consequences which are but too likely to follow if you determine to persevere. I will not now advert to any topic of recrimination. I should, indeed, most deeply deplore the painful necessity of doing so upon any occasion. But the right of recrimination on the part of my client I could not exercise without directly violating the express injunctions of Her Majesty; nor is it my purpose to resort to that right unless driven to it by absolute and over-ruling necessity. In obedience to the same high command, I lay out of view, as equally inconsistent with my own feelings and those of my client, all arguments of another description in which I might be tempted to show that levity, or indiscretion, criminality, or even criminal intercourse (for why should I be afraid to use the term?) cannot be held to be fatal to the character of the country, or to the honour and dignity of the illustrious family governing it. Here nothing is or has been proved; and is it because calumnies have been bruited and gossipped about—because such a jealous watch has been kept upon the Queen abroad, that we are to think they are to have more force than conduct less equivocal at home? That argument, and every thing resulting from it, I willingly postpone till the day of necessity; and in the same way I dismiss for the present all other questions respecting the conduct or connexions of any parties previous to marriage. These I say not one word about; they are dangerous and tremendous questions, the consequences of discussing which, at the present moment, I will not even trust myself to describe. At present I hold them to be needless to the safety of my client; but when the necessity arrives, an advocate knows but one duty, and, cost what it may, he must discharge it. Be the consequences what they

* New Parl. Hist., v. 8, p. 237.

may, to any other persons, powers, principalities, dominions, or nations, an advocate is bound to do his duty; and I shall not fail to exert every means in my power to put a stop to the progress of this bill. But when I am told that a case of absolute necessity for the measure is made out, because the Queen has been guilty of improper familiarities (though I must look at the bill itself for the nice distinctions and refined expressions found in it) because she has thought fit to raise from low situations, officers who had served other people in menial capacities—because she had treated them with unbecoming intimacy—because she had advanced them, and bestowed marks of favour and distinction upon them—because she had created an order, and conducted herself in public and private with offensive familiarity—I cannot help asking, if these matters are so fatal to the honour and dignity of the Crown, nay, to the very peace of the nation (for what else can justify a bill like this?) why it is only resorted to at the present moment? The bill charges even a licentious, disgraceful, and adulterous intercourse; and therefore its supporters say it is absolutely necessary for the House to interpose. But I appeal to the House—for I am compelled to do so—whether this is not only untrue, but whether it is not known to be untrue. The bill itself speaks falsely, and I will tell your lordships why I say so. Are we arrived in this age at that highest pitch of polish in society when we shall be afraid to call things by their proper names, yet shall not scruple to punish by express laws an offence in the weaker sex which has been passed over in the stronger? Have we indeed reached that stage? I trust I shall not hear it said in this place: I hope that spirit of justice which I believe pervades this House at large will prevent it. But if not, I will appeal to the spirit of holiness, and to the heads of the church now ranged before me, whether adultery is to be considered only a crime in woman. I make the same confident appeal, and to the same quarter, when I ask, whether the Crown can be dishonoured, the fame of the country tarnished, and the morals of the people put in jeopardy, if an adulterous intercourse (which no one ventures to call adultery) shall be proved against a lady, when that which I venture to call adultery, because the exalted individual himself has confessed it to be so, has actually been committed by a prince. It is with the utmost pain that I make this statement: it is wrung from me by hard compulsion; for there is not a man who acknowledges with a deeper sense of gratitude than I do, all the obligations which this country and Europe owes to that illustrious individual* to whom it refers. I say it not—God forbid I should—to visit harshly upon him any of the failings of our common nature, much less to alter in one iota my recorded sense of the baseness of that conspiracy by which those failings were dragged before the public. I bring it forward because it is in truth an answer to this case. Why was no bill of degradation brought in in 1809, after the resolution of the House of Commons, and a full confession on behalf of the party accused, that he had been guilty of most immoral and unbecoming conduct? All this, I say, was well known to the authors of the present bill; for one of themselves penned the very words I have just read to the House. I ask, therefore, whether there is any possibility of replying to this objection, but in one short way—that the male members may do all they please, however exalted their station, however intimately connected with the Crown and with the highest interests of the state; that their conduct is perfectly a matter of indifference; but let the tooth of slander once fix upon a defenceless female of the family, who has been residing abroad, who has been allowed to expatriate herself, who has been assisted in removing from the country and even cherished to keep away from it; then, at that instant, the venom must distil, and she must be persecuted and prosecuted, under the canting, hypocritical, and disgusting pretence, that the character of the country and the honour of the Crown are at stake. Whether all of us, nearer to the object, do or do not see through the flimsy pretext, be assured that the good sense of the nation cannot be deceived, and that those at a distance will be both shocked and astonished. The people at large must look upon it as something too ridiculous to be examined: I myself can hardly use decorous terms in speaking of it, and they, in their homely language, will assert, that it is an attempt to accomplish one purpose under the colour of another. "Here is a man," they will say, "who wishes to get rid of his wife; he talks of the honour and safety of the country, yet its

dearest interests, its peace, its morals, and its happiness are to be sacrificed to gratify his desires." I would then exhort your lordships for sake of the reputation and judgment, as well as for sake of the peace and interest of this country, not to allow its grave, rational, enlightened, and moral character, as well as its internal tranquillity, to be sacrificed, in order to gratify the caprice or will of any individual, by the adoption of a measure of such an extraordinary purport as that before the House. By this measure it is proposed to enact a divorce in a peculiarly novel manner: for, where, I ask, can an instance be found in the whole history of the law, where, after a legal marriage, which I assume that between their majesties to have been, it was ever attempted to dissolve that marriage, except upon actual proof of adultery, and upon the application of the husband or party aggrieved? It is provided, indeed, in your lordships' Standing Orders, that the husband who applies for a divorce shall personally attend the House, in order that he may be examined before the divorce is granted to show that there is no collusion, and that he himself stands *rectus in curia*. But the charge against my client, upon which a divorce is sought in the present bill, is not that of adultery, but "adulterous intercourse," which is an offence unknown to our law. In order to facilitate the dissolution of the sacred bond of marriage, it has been occasionally asserted, that it is not a religious, but a civil contract. To rebut this assertion, I could quote the opinions of some of the ablest divines, and soundest lawyers this country has ever known, or to whom the guardianship of our public morals and public institutions were ever committed. But I think it quite enough to read an extract from the decision of one of the greatest consistorial judges England ever possessed, I mean sir William Scott, who, in delivering his judgment on the case of Dalrymple *v.* Dalrymple, when some foolish objection was made against the sanctity of the marriage state, thus expressed himself:—"Marriage, in its origin, is a contract of natural law; it may exist between two individuals of different sexes, although no third person existed in the world, as happened in the case of the common ancestors of mankind; it is the parent, not the child, of civil society. In civil society, it becomes a civil contract, regulated and prescribed by law, and endowed with civil consequences. In most civilized countries acting under a sense of the force of sacred obligations, it has had the sanction of religion superadded: it then becomes a religious as well as a natural and civil contract; for it is a great mistake to suppose that, because it is the one, therefore, it may not likewise be the other. Heaven itself is made a party to the contract, and the consent of the individuals pledged to each other, is ratified and consecrated by a vow to God." Is it possible, then, that your lordships can ever be persuaded to lay sacrilegious hands upon such a sacred compact—that you will attempt to put asunder those whom God hath united, or to cut that knot which has been tied by the combined laws of God and man! But how can your lordships be reconciled to such a deed in the extraordinary manner proposed by this bill, where the husband himself does not, as in every other instance of divorce, come forward to make any application for the measure? My learned friends on the other side, in order to get rid of the astringent arguments which they had reason to apprehend upon this point, on the part of my client, have, no doubt, told your lordships, that the king is no party to the present application. But my learned friend, the attorney-general, when certain questions were put to him, could hardly tell whence he came, how, by whom he was sent, or with whom the present prosecution originated, although he could say that the king was no party to the measure. Thus my learned friend warily and astutely endeavoured to ward off the argument which might arise from the personal interference of the king. He therefore said, that he was employed by the secretary of state, and that he appeared on the part of the public. He, however, received all his information upon the subject at the office of the secretary of state. It appears, indeed, that my learned friend did not go to any other place for intelligence, from an apprehension, perhaps, to use a common phrase, that he might go farther and fare worse. My learned friend has, it would seem, been employed by nobody, and thus constituted, he applies to your lordships for the adoption of this unprecedented and illegal proceeding; for the adoption, indeed, of a measure which is against all the analogies of law, and for the dissolution of a bond held sacred by the whole of our civil and ecclesiastical

jurisprudence.—But will your lordships allow me to ask, whether there is not enough of evidence before you and the country to show that the ground upon which this bill is alleged to be necessary, namely, a regard to the dignity of the Crown and the honour of the nation, is a mere pretence, that indeed it is quite an after-thought? In order to form a correct judgment of the views of men, it is certainly better to look to their conduct than their language. That is a good rule at any time, but especially at such times as the present, and with regard to such politicians as those with whom this bill appears to have originated. I should, indeed, rather look to an act of such persons for the illustration of their real views and principles, than to whole volumes of speeches or writings. It may be said, that I cannot precisely tell who are the authors of the present bill. But I must presume those to be the authors of the bill who laid before parliament the papers upon which it professes to be founded. Those who advised her majesty to go abroad against her own wishes are perfectly well known. At a period of life when Her Majesty was naturally anxious for the enjoyment of quietude, she was encouraged by those advisers to seek that quietude in a foreign land, where every prospect and promise of comfort and ease were held out to her. Those advisers were opposed. Her Majesty was told by gentlemen who offered to stake their heads for the fact, that she would be quite safe if she remained in this country. I am stating that to which I myself put my hand. It was stated to Her Majesty that if she should go abroad, she would be surrounded by spies, and that some plot would be formed against her. These statements were however unavailing. Her Majesty did go abroad; and how far the advisers who sought to dissuade her from that proceeding, were correct calculators, her present situation could fully illustrate. In compliance with the opinion of those who contrived to counteract her faithful counsellors, she went to the Continent; and upon her return it was her fate to find her professed friends arrayed against her, upon the ground, forsooth, that in consequence of her return she ought to be prosecuted for alleged misconduct, in which it seemed she might revel to any extent if she would only remain abroad. There was no objection, it appeared, if she would do so, that she should indulge in any liberties she pleased—that she should have that sort of unlimited toleration which was offered to her many years ago, upon certain conditions. But having determined to return to England, that ship which was so ready to carry Her Majesty away from England was refused to convey her home. She was alleged to have been guilty four years ago of the offence charged upon her in the present bill, and yet no proceeding was instituted or menaced against her until she thought proper to come home. Until then, it was not alleged or insinuated that it was necessary for the dignity of the Crown, and the honour of the nation, to take any measure against Her Majesty. Not a word, not a rumour, not a breath, indeed, was ever heard of any such measure or pretence, until Her Majesty came home. Her Majesty might, it appeared, act as she pleased among foreigners, who envied and hated England; she might exhibit any spectacle she desired to their jealous eyes, without interfering with the dignity of the Crown and the honour of the nation; but the moment she set her foot on English soil that dignity and honour called for her prosecution and punishment. I am aware that propositions were made to her majesty, if she would agree to certain terms, and that even up to the twelfth hour, the prospect of compromise was held out. These propositions were, however, accompanied with a threat, the publication of which gave, it seems, very great offence. But how was Her Majesty treated throughout the whole of this case, and how were the long-suffering people of this country treated also? She would have been permitted to enjoy the rank which it was now alleged she had forfeited, while she was to have an increased pension, with full licence to pursue what the present bill called "adulterous intercourse," if she would only continue on the Continent, and abstain from visiting England. So that if she was as criminal as her accusers alleged, she was to be allowed a larger salary for the more extended enjoyment of that criminality; if she would only be reconciled to a foreign residence, no charge whatever was to be brought against her of any injury to the dignity of the Crown and the honour of the nation. These pretences or phantoms were, indeed, only raised upon Her Majesty's arrival in this country. This review of the conduct of the authors of the present bill must serve, I think, suffi-

ciently to illustrate their character, and I appeal to your lordships, as men of sagacity and sound sense, as men of just principles and generous views, but above all, as men of honour, whether such a measure should be allowed to proceed farther. Let me beg your lordships to retrace your steps by stopping the progress of a bill, the principle and purpose of which are so utterly exceptionable. It is the character of wisdom to abandon error the moment it is discovered, and the sooner any erroneous course is given up the better. I hope and trust, then, that your lordships will not be induced, for the gratification of any man, to prosecute this or any other measure upon idle pretences, and at the hazard of absolute ruin, and that by rejecting such a proposition you will act as becomes your duty, consult the salvation of the country, as well as the real and substantial honour of the Crown.

The *Lord Chancellor*, as soon as Mr. Brougham had retired from the bar, said, that the House, which admitted but two counsel to be heard, would hear the other counsel now.

Mr. *Denman*, at that late hour of the day, when the understood period for the termination of business had arrived, after an anxious attendance, and in his present state of health, trusted that their lordships would extend to him their indulgence by granting him time till to-morrow.

The Earl of *Liverpool* was most ready to comply with the request of the learned counsel, and suggested the propriety of an adjournment.

The *Lord Chancellor* added, that the House would proceed to-morrow, and that only two counsel would be heard for or against the bill.

HOUSE OF LORDS.

Friday, Aug. 18.

The counsel for and against the Bill of Pains and Penalties having been called in,

Mr. *Denman*, her majesty's Solicitor-general, then addressed their lordships. He commenced his address to the House by thanking their lordships for the indulgence which had on the preceding day been extended to him. It now became his duty, the learned counsel said, to state to the House the objections he had to urge against the bill which was before them; and it would require no argument of his to convince their lordships, that the question to which he was about to address himself—the principle of the bill—was as open to opposition in the present stage of the proceedings as it could have been at any previous period. That fact had been fully established in the case of the duchess of Norfolk; and, indeed, if he were to be considered as precluded by any thing which had passed from entering into the fullest discussion of the present and of the original measure, it would be waste of time for him to proceed at all. He should, however, address himself to the subject just as if no proceedings had yet been taken, and as if the bill were now for the first time presented to a House of Peers which, in point of law as well as in point of fact, had never heard one syllable of the intentions of those by whom the bill had been promoted. If, then, it was open to the House at this time to enter into a full consideration of the principles of the bill in all its bearings, it followed of necessity, that if the House, as it was now constituted, should happen to take a different view of the question from that which had been acted upon, there would be no inconsistency, no impropriety, no retractation, in their adopting such view. The House had no steps to retrace, because no steps had been taken—because the House stood at the present moment upon the very threshold of the measure; and upon that threshold he would make his first stand against it. He had looked at this bill, of tremendous importance, attentively, and to the principle of it he thought it impossible for any constitutional or legal mind not to feel the strongest aversion; but he must confess that, proceeding technically, he felt some difficulty in raising the point with which he was to contend. When he read the bill, and asked himself what particular principle he should assail, he was at a loss to abstract that particular point from the mass; he was puzzled to see what was the especial doctrine meant to be established; what was the precedent supposed to be followed, or sought to be laid down; what were the lights derived from the past, or what the example held up to the future. It was in vain that he had tried to abstract the bill; and, although he had exerted his faculties upon the preamble, he could draw from that document no precise charge—he could grapple with nothing which directly affected either the conduct, the character, or the interest of his client.

Before he pursued that part of his subject, however, he felt it his duty to say, that he was even now addressing their lordships under an election which his client had been compelled to make. He did not complain of that which to the House had seemed just; but, with reference to the possibility of a change of circumstances, he thought proper to remind the House, that those for whom he appeared had been compelled to that election, and that the election so made ought not to be captiously held as binding upon them against any change of measures which a change of circumstances might induce. There was another point, too, upon which Her Majesty's counsel had been put to their election, and upon which he doubted if they had exercised a wise discretion on the part of their client. Upon other occasions of a similar nature both common lawyers and civilians had been heard; but upon the present important question, a question involving those principles which formed the very basis of the common law, and compromising equally those rules of ecclesiastical polity, and those principles which governed the nearest relations of social life, only one common lawyer and one civilian, or two common lawyers, were permitted to address the House. The effect of that order had been to deprive him of the assistance of a learned friend who would have done justice to many points upon which he (Mr. Denman) was almost wholly uninformed; but, under all disadvantages, he appeared before their lordships—he appeared in the execution of that important duty which was cast upon him by his office—an office which, in the present hour of trial and of difficulty, he prized far more highly than the proudest favours which royalty could confer in the moment of prosperity. He appeared before the House in the performance of that duty; and if he failed, the failure would be owing to his want of talent, and not to any want of zeal for the cause which he was pleading.

The proceedings of the secret committee, the learned counsel continued, who had occupied themselves in the examination of certain written papers, unvouched, he believed, by any living witness, had been compared to the proceedings of a grand jury. He would not travel over the ground so often trodden in contrasting the difference between the two jurisdictions; but this secret committee, compared to a grand jury, deputed to find bills, was not the body from which the present bill had emanated. The bill had been set up in consequence of the recommendation of the secret committee; but that body had not found that the facts stated were in proof before them, or that the present was the proper mode of bringing those facts to investigation and to punishment. The secret committee had merely recommended a solemn inquiry; they had merely declared that, upon examining the documents laid before them, they found, upon the concurrent testimony of various persons residing in different parts of Europe, charges deeply affecting the honour of the Queen—charges so deeply concerning, not only the dignity of the Crown, but the moral feeling of the country, as to call for a solemn inquiry: and that it was their opinion that such an inquiry would be most conveniently effected through the medium of a legislative proceeding. The secret committee had not declared that the evidence of those various persons was true, or even that the documents were authentic. They had recommended a solemn inquiry, not a bill of divorce and degradation. That bill had been laid before the House, not by the committee, but by an individual peer—filling, no doubt, a situation of high responsibility in the government, but, in the present case, simply preferring the bill as any other peer in that House might have preferred it. He took it for granted that the bill had not been drawn by the noble earl who had presented it: he did not inquire whether it had been drawn by the learned attorney-general; but he was certain that he need make no apology for declaring that he should examine it as narrowly and with as much fearlessness as if it were a common indictment preferred at the lowest tribunal to which a subject of the country could be summoned. When he looked at the terms of the bill (for he could find no abstract principle belonging to it) he saw no state necessity mentioned, no public inconvenience pressed, as a cause why it should pass. But, to look for a moment at the recital of this bill—this ebullition, as it seemed to be, of moral feeling on the part of the party who drew it—this bill which was to express the deep feeling which the House entertained of the "scandalous, vicious, and immoral" conduct of the Queen. In 1814, Her Majesty, then Princess of Wales, being at

Milan, engaged in her service one Bartholomew Bergami, a foreigner of low station, who had before served in a similar capacity. Well, there was nothing very scandalous or vicious in that. And after the said B. Bergami had so entered the service of the Princess of Wales, a most unbecoming and degrading intimacy commenced between them. Whether any given intimacy was unbecoming or degrading must be very much a matter of opinion; and that which one of their lordships might deem derogatory, might by another be held perfectly fitting for Her Majesty's rank and station. The learned counsel then read through a variety of the charges against Her Majesty, among which it was impossible, he contended, to discover any thing either scandalous, unbecoming, or disgraceful—any thing which one human being had a right to censure in the conduct of another, or any thing which could honestly be imputed as a crime, either in a court of justice or in a legislative assembly.

But this proceeding had been likened to an ordinary bill of indictment. "What," said Mr. Denman, "is it common, in bills of indictment, to state the evidence against the party?—to state the facts which perhaps have governed the decision of the grand jury upon their ex-parte examination?—to place upon the record, not a plain, honest, intelligible charge, but the evidence, the very evidence, upon which they have brought their own minds to a conclusion, perhaps most uncharitable and unjust? Is there any thing in bills of indictment insidious, ensnaring, and jesuitical?—any thing that leaves the party accused, in doubt and darkness as to the crime he is accused of? No; the law of England, that law which may be truly called the perfection of reason, of justice, and of humanity, is most careful that no individual shall ever be charged with an offence, the nature of which he shall not understand, and to which he shall not be prepared, if innocent, with an immediate answer. If I were to indict a man for murder, should I, upon the face of the indictment, state more than that he, with malice aforethought, &c. struck the blow? Should I say, that John Thomas had been for ten years an enemy of the deceased?—that he had threatened him, and that he was seen to watch and to waylay him? Then why, for Heaven's sake, in this most solemn proceeding, where, from the nature of the offence charged—from the nature of the circumstances attending it—from the nature of the evidence by which it is to be established, it becomes most peculiarly just, most absolutely necessary, if justice is intended, that the defendant should have the most clear and distinct notice, the most precise advertisement and warning of the facts with which she is charged—why are circumstances, which are at best but evidence from which the fact may be inferred, why are those circumstances to be blazoned upon the face of the indictment?"

[Here the learned gentleman's argument was interrupted by the entrance of the Queen. The House rose to receive Her Majesty, who, attended by lady Ann Hamilton, took her seat within the bar, and immediately in front of her counsel.]

Mr. *Denman* continued.—It was for these reasons that he protested against the principle of the bill, which he could only view as an enumeration of doubtful circumstances proceeding upon an *ex-parte* statement, capable probably of a complete and satisfactory answer, but certain to excite prejudice against the party accused, and supposed to be put fairly and impartially upon trial. But he would proceed for a moment with the language of the bill. It stated, "that Her Majesty the Queen, wholly regardless of her honour and of her character, and unmindful of her duty to her husband, conducted herself to the said Bartholomew Bergami, and in other respects, both in public and private, in various places and countries which she visited, with indecency, and with offensive familiarity and freedom." What, the learned counsel would ask, was conveyed by such language? How was such a charge to be met? What was to be understood by "in other respects?" There were circumstances stated, which, at law, would be considered as most unjustly and most iniquitously stated; but not a word, not a fact, which proved the Queen to have been unmindful of her duty to her husband; and then, in order to meet her with a charge of which she could have no notice, and could not possibly be prepared to answer, they provided themselves with arguments and witnesses as to indecent familiarities "in other respects." And then, as a climax, to which the author of the bill seemed to have worked himself, came the charge which he had not dared to make point-blank, the charge which would of itself have been sufficient

to support his bill, and without which it never could stand for a moment; then, as though he had worked himself up to the desperate and unnatural resolution of taking the chance that some suborned wretch from among the perjured, abject pack, dragged by bribes from among the dregs of society in those countries which the Queen had visited, might come up to the mark, then came the "intercourse." He had never known until now that it was necessary to qualify the word adultery. He should have thought the simple word sufficient without any other epithet. But the deviser of the bill had worked himself up step by step, and, after reaching the points "licentious and disgraceful," he had contrived to go one step further, in hopes of inducing the jury to infer adultery from the circumstances which might appear in evidence before them. The *beau* movement, however, was to come. First was manifested the deep sense of her majesty's scandalous and vicious conduct; next, the determination that she had rendered herself unworthy of her station and prerogative; then the resolution to deprive her of those advantages; and last, as though it had just occurred to the mind of the ingenious writer, came that remarkable clause, which, as a postscript sometimes contains the whole meaning of a letter, seemed to contain the whole force of the bill—the sentence of divorce against her majesty the Queen; thereby permitting her royal consort to contract a second marriage.

He had already, the learned counsel continued, alluded to the indefinite nature of the charges in the bill—to their frequent dependence upon individual feeling and opinion. And upon what feelings or opinions was her majesty charged with indecent and improper freedoms? For, after all, there was nothing for it but opinion. We had opinions distilled to the third and fourth degree; presented by some one to the committee; by the committee to the secretary of state; and by the secretary of state to the attorney-general; opinions given by the House knew not whom, and coming through channels equally unknown. He would defy any human being to point out a question upon which such variety of opinion might exist as upon that question of improper familiarity; and upon that very point he would refer the House to one of the finest compositions which had ever been produced by the pen of man—the letter addressed by the Princess of Wales to his late majesty upon the subject of the inquiry in 1806. In the course of that inquiry, Mrs. Lisle, a lady of the highest character, was examined as to the conduct of the Princess of Wales, and she declared that she thought the conduct of the Princess was only "flirting conduct," which was the strongest term remaining against the Princess upon that inquiry. The letter to which he would refer their lordships contained these observations:—"What Mrs. Lisle exactly means by only flirting conduct, what degree of impropriety of conduct she would describe by it, it is extremely difficult, with any precision, to ascertain. How many women are there, most virtuous, most truly modest, incapable of any thing impure, vicious, or immoral, in deed or thought, who, from greater vivacity of spirits, from less natural reserve, from that want of caution which the very consciousness of innocence betrays them into, conduct themselves in a manner, which a woman of a graver character, of more reserved disposition, but not with one particle of superior virtue, thinks too incautious, too unreserved, too familiar, and which, if forced upon oath to give her opinion upon it, she might feel herself, as an honest woman, bound to say, in that opinion, was flirting!" Mrs. Lisle, it should also be observed, was, at the time of her examination, under the severe oppression of having, but a few days before, heard of the death of her daughter; a daughter who had been happily married, and who had lived happily with her husband in mutual attachment till her death. The very circumstance of her then situation would naturally give a graver and severer cast to her opinions."—If such, my lords, (continued Mr. Denman) are the able and incontrovertible remarks made upon the evidence of that most respectable and honourable individual to whose testimony they apply—if it must be admitted that in such a case great allowance ought to be made, not only for peculiar notions with respect to propriety of manners, but for the existing state of spirits of the person by whom such notions may be entertained, what weight shall we ascribe to the opinion that her majesty has indulged in "indecent and offensive familiarity and freedom"—an opinion proceeding from nobody knows whom, and which must have been founded on information passing through a variety of chan-

ners? My lords, the passage which I have just read, seems to have a classical allusion to a sentence in which Hume describes the character of the unhappy Anne Boleyn. That sentence is as follows:—"Anne, though she appears to have been entirely innocent, and even virtuous in her conduct, had a certain gaiety, if not levity of character, which threw her off her guard, and made her less circumspect than her situation required. Her education in France rendered her the more prone to those freedoms; and it was with difficulty she conformed herself to that strict ceremonial practised in the Court of England." And let it be recollected, my lords, that on the subject of "familiarity," there is something in royalty which dispenses to the possessors with the necessity of being so alert with reference to it, as may be requisite on the part of persons of less elevated condition. They cannot lose any rank by whatever condescension they may show. If they give way to generous kindness and sensibility—if, in moments of confidence and absence from suspicion, they indulge in their native joyousness of character, they thereby diminish nothing of the true dignity which belongs to them. It is for persons of inferior station to feel a jealousy on this subject, to keep at a distance from what might be termed undue condescension, and to avoid that amiable familiarity which is inherent in all good minds, when at liberty to act from native impulse. Such, my lords, is the character which was formerly attributed to an illustrious person whom I must not here name. I may, however, be permitted to mention an anecdote of that illustrious person, which I believe rests on the authority of the late lord Guilford. It is said, that that illustrious person, some years ago, so far forgot himself as to indulge in habits of familiar kindness even with persons of a rank so inferior to himself as waiters at taverns.—From one of those individuals a note was addressed to that illustrious person as follows:—Sam Spring, of the Cocoa-tree, presents his compliments to his Royal Highness, &c. &c." To this his Royal Highness returned an answer couched in these terms:—"This may do very well between you and me, Sam, but it will not do with your people of high dignity. For God's sake, do not speak so to Norfolk or Arundell" [a laugh].

My lords, I beg leave also to remind your lordships, that, but a short time since, it was by no means improbable that a proposition would have been laid before your lordships, of a description very different from the present bill; a proposition which, instead of enacting that her majesty should be dethroned, and her marriage declared null and void, would have recognized her majesty as queen consort, would have continued her in the legal enjoyment of all her rights and privileges, would have secured to her an annuity for life of fifty thousand pounds, would have undertaken to convey her in a royal yacht to any part of the continent, and would have entreated her to accept, in conjunction with her royal husband, the grateful acknowledgments of parliament, for the facilities afforded to such an arrangement. If in any argument the conclusion shall appear to be false, and if that conclusion has been fairly drawn from the premises, then the premises themselves must have been false.—If, therefore, your lordships were within a hair's breadth of having the proposition which I have just described submitted for your sanction, it follows that the charges against her majesty are false, and that the premises on which those charges are founded cannot be true. Or, my lords, take it the other way. How comes it that we are here? The whole of this unfortunate affair originated in his majesty's message to Parliament. What was the gist of that message? That the Queen's arrival in this country rendered some parliamentary proceeding necessary. The honour and dignity of the Crown, the welfare of the state, were in no degree implicated, it seems, until her majesty's arrival in this country. Why, then, my lords, the preamble of the bill ought to have run thus:—"Whereas in spite of the offer of 50,000*l*. a year made to her majesty to stay away, and whereas, although her majesty knew of the charges that were to be exhibited against her, and whereas, although a long negociation was carried on, of a nature the most favourable and flattering to her majesty, she refused to become a party to her own degradation by silently acquiescing in her exclusion from the Liturgy, &c.; therefore be it enacted, that her majesty shall be degraded and divorced, and that her royal consort shall be at liberty to marry again." If your lordships wish the preamble of this bill to speak the truth, it must assume one of the forms which I have described. At

any rate, it must not retain that in which it is at present moulded. My lords, I do not like the introduction of levity on a subject of this grave nature; but I declare, that when I first heard this bill read I thought myself in a theatre, and fancied that the various parts were got up by different performers. One seemed to me to say, "her majesty engaged in her service a foreigner of low station;" another, "A most unbecoming and degrading intimacy commenced between her Royal Highness and Bartolomo Bergami;" a third, "Her Royal Highness placed him in high and confidential situations about her Royal Highness's person;" a fourth, "Her Royal Highness conducted herself in a manner that proved she was wholly unmindful of her exalted rank and station;" and then came Mrs. Candour, implying, in the phrase, "and in other respects," a something which even her kindness could not extenuate. Really, my lords, it appears to me that we are acting the "School for Scandal;" and that this solemn inquiry in which we are engaged, is nothing more than a solemn farce. It appears to me that there has been a kind of Malvolio, expelled from his stewardship by the combination of the servants, with whom he has quarrelled, and who have determined to wreak their vengeance on him, although the most distinguished person in their mistress's household.

What we complain of, my lords, is, the absence of a distinct and definite charge, and the multiplication of circumstances, from which an inference is intended to be drawn; but against which no defence can be made. What we complain of, my lords, is, that a motive is held out to your lordships for passing this bill, which would be inoperative in a court of justice or on an impeachment. In a court of justice a jury would be sworn to determine whether the distinct fact alleged had been actually committed or not. In the case of an impeachment distinct articles would have been exhibited, and every one of your lordships would have been severally called on to declare, upon his personal honour, whether or not he believed that the specific charges were true. But, my lords, under the present circumstances it is difficult—nay, it is impossible to say on what principle your lordships will individually be guided in your decision. Some noble lords, who may be satisfied that no "adulterous intercourse" has taken place, may nevertheless entertain such high opinions with respect to "familiarities," as to be induced to convict her majesty, and to think it therefore necessary to pass this bill. My lords, I know that all the noble persons present who are lawyers will declare, "We must have the adultery distinctly and unequivocally proved;" but there may be other noble lords who may be of opinion that a strong surmise will be sufficient. What security, therefore, can I possess of a just and legal decision? The law lords from their professional habits, I may be sure of; but how can I tell on what other noble lords may be pleased to found their verdict? In an action for crim. con., or in a criminal court, the judge would say, "I must have the fact of the adultery distinctly proved," and if it were not distinctly proved he would direct the jury to acquit the defendant. But the question is how we, her majesty's counsel, are so to guage and measure your lordships opinions as to be able to do away with the various impressions which this bill is calculated to make on your lordships' minds? Some of the allegations in this bill may appear to your lordships to be true. There may have been frequent "familiarities" as they are called. There may have been frequent sittings at table together. There may have been frequent appearances of intimacy during the continuance of mutual hardships and difficulties, which under other circumstances would be improper. But how are we to know what evidence on such subjects will be satisfactory to all your lordships? Some of your lordships may be disposed to convict our illustrious client, on the ground of "unbecoming and degrading intimacy:" others on her having advanced the individual implicated with her "to a high situation in her Royal Highness's household;" others on her having "conferred upon him a pretended order of knighthood;" others on her having "received into her service many of his near relations." Every noble lord may discover some particular basis on which to justify his vote; and no two peers may pronounce on the same grounds. There may even be some of your lordships tempted by views of expediency alone to pass the measure. We all know that when great interests clash—when the highest characters of the realm are opposed to one another, this language will be held—this language has been held—that as one of the parties must be dis-

placed, right or wrong, the one less important to the general weal must give way. One print has even dared to say, that if your lordships do not feel justified in treating her majesty as a criminal, the public interest requires that she should be made a martyr! Far am I, my lords, from insinuating that such an argument can have any weight on your lordships' minds; but the doctrine has been avowed, and we can therefore have no security with respect to the extent of its influence.

If I am asked, what course of proceeding would be preferable to the present, I reply, that it is in the power of the House of Commons to call on your lordships by an impeachment to enter into an inquiry into this subject. Certainly a grand jury could not investigate the nature of any acts alleged to have been committed at Milan. But your lordships are not precluded from such an investigation. An impeachment would be a trial. A bill of pains and penalties is no trial. It is calculated to defame the accused. It is calculated to excite suspicion against your lordships—unjust, I allow, but certainly not unnatural;—suspicion, which, if the present proceeding be persevered in, the public will think they have a right to entertain. My lords, in the most solemn manner I disclaim any, the slightest imputation, on this high tribunal. I revere it from the depth of my heart. If on any occasion it should happen to appear to be influenced by a sinister motive, I would rather submit to that inconvenience than throw any odium on its general administration of justice. But if the public see the legislature of the country, on a great and important occasion, depart from the principles of justice, and volunteer the support of charges, such as those which this bill exhibits, the time will come when it will be difficult for the warmest advocates of our constitution to justify your lordships' conduct. I will not repeat the remarks offered to your lordships yesterday on this bill by my learned friend. The proceeding is, as my learned friend justly observed, a proceeding in which the accusers, the jury, and the legislature, are combined in one. In reference to the measure of former times, to which my learned friend alluded (and against which so able a protest is entered on your lordships' Journals), I will say, that I should consider the honour of the peerage dearly bought, were it to be on the condition of finding my ancestor's name in the majority by which that measure was carried. Let your lordships consider the evil consequences with reference to your own dignity, which must be the result of persevering in a departure from the principle which I am advocating. In a judicial proceeding this House ought alone to pronounce. What will be the consequence of your lordships sharing your high functions with others? Your lordships examine evidence on oath, and you pronounce your opinions upon your honour. If, after passing sentence on her majesty, by acquiescing in the present bill, you send it down to the Lower House, it will there be exposed to all the indignity of popular clamour. In that House witnesses are not examined on oath, and yet they may be subjected to all the scrutiny to which six hundred and fifty-eight gentlemen of various habits and tempers, may choose to expose them. I have certainly no inclination to disparage that House of Parliament; but I cannot forget, that it has been said by one of their most distinguished members, that they never entered into any inquiry, but they disgraced themselves. Instead of expressing their own unbiassed judgment, every petty corporation will be entitled to instruct its representatives on the subject of this bill.

But, my lords, there is yet a third estate. The King must become a party to this proceeding; the King and the House of Commons will share with your lordships that which has hitherto been considered the brightest and most valuable of your privileges. The King, in all cases a formidable auxiliary to a cause which he espouses, must, in the present instance, be an overpowering one. Let us examine, my lords, the part which the King has hitherto taken in this affair. Has the King complained, or has he held his peace? If his majesty has held his peace, will your lordships set the first precedent since the canon law, of a dissolution of marriage without any complaint from the parties to it? If his majesty has been the complainant—if he has set all the machinery going which is now in such terrible operation—with what face can your lordships call on the King, who, by that complaint has already as emphatically pronounced upon the subject as if he had spoken from the throne to decide on a question in which his dearest wishes are so deeply involved? How can your lordships call on this third estate to pronounce on that on which it has pronounced already? My

lords, permit me again to say, in the presence of my royal client, that in now attempting to avert what is miscalled the trial of her majesty, there is no departure whatever from consistency. We ask for a trial—but we ask for a fair trial. We do not wish for a trial founded on scandalous imputations sealed up in a bag, and hinted at for the purpose of poisoning the public mind. We do not wish for a trial in which the judges are not warranted in examining witnesses on oath. We do not wish for a trial in which the ultimate sentence is to be pronounced by him whose interest it is to condemn us. Not only is there no inconsistency on the part of her majesty in endeavouring to avert this disgusting inquiry, but the effort is due from her to a state in which she is now the first subject, and of which she may one day be the Sovereign. She owes it to the country—she owes it to morality—she owes it to justice—she owes it to all those principles on which society is founded, and by which it coheres and is maintained.

But, my lords, is this bill a bill of Divorce? Is it any thing else? The last four lines of the bill would be perfectly adequate to the description of its object. That object is but too obvious. No man can be so blind as not to perceive that the whole purpose of the bill is to release his majesty from those ties which bind him to his present wife. If, however, this bill were an ordinary bill of Divorce, the husband must be here to be examined upon oath, if your lordships should think fit as to the manner in which he has conducted himself towards his wife; in order to ascertain whether she had lived apart from him, or abroad with his consent, and other circumstances of that nature. In the system of divorce, which has unfortunately increased so much of late, there is this security—that no husband can successfully appear at your lordships' bar, without showing that his own conduct has been free from reproach. If a bill of Divorce were preferred before your lordships, in which it should appear that the wife at the time of her marriage was young and inexperienced—that she came from a foreign country with prospects of splendour and happiness as great as any female ever contemplated—that she was suddenly assailed by every circumstance of irritation and injury—that she found her husband surrounded by mistresses—that the birth of a child, instead of being the pledge of affection between herself and her consort, seemed to be the signal for their total separation—that in a few years she was banished from the conjugal roof—that she was vigilantly watched by hosts of spies and informers—that a report was called for on her conduct—that after a full but *ex parte* inquiry she experienced a full acquittal, and was again received into the embraces of the father of her husband, by whom she had never been deserted—that at a further period she was induced to leave the country—that an experiment was then made, whether that which had not succeeded in England might succeed in Italy—that the charges against her in this country, where the witnesses were known, having been blown to atoms, it was tried what could be done by means of unknown witnesses in a strange land, who, if they could not convict her of guilt, might at least asperse and blacken her character—that she had been five-and-twenty years separated from her husband, leaving the just inference that he had abdicated his rights by neglecting that care and protection, to which, as his wife, she was entitled; I ask your lordships, whether, under all those circumstances, you would hear such a case at your bar? I will not ask with what feelings such a husband as I have described could come to your lordships' bar—here I stop. But this I am bound to state—that if this proceeding is to go on, I claim for my illustrious client, her full and ample right to every species of recrimination. To deprive a wife against whom a divorce is sued, of her right of recrimination, is to give an undue advantage to a husband who may be unjustly alienated from her. If such a husband has, by unkindness, driven his wife from her home, into a situation in which she is necessarily subjected to suspicion, he ought not to be allowed to take advantage of his wrong, by being protected from all inquiry into his own conduct.—I therefore feel that I have a right to state, shortly, what I conceive her majesty's rights to be on the present occasion. I think that the right of recrimination is the most important right that a Queen Consort can possess on such a proceeding as the present. And I think further, that if any doubts exist on this point, the more they are sifted the more surely and speedily will they be removed. Unless, indeed, your lordships are prepared to say, that those rules of morality, which are sup-

posed binding in humble life, are to be removed altogether from the higher classes of society—unless your lordships are prepared to say, that where the situation of the party is most elevated the example is to be the least—and that where cruelty has been most inflicted the greatest correctness and propriety of conduct is to be observed. In all the previous cases of bills of pains and penalties they have been defended on the ground of state necessity; and it is curious to observe, that in some of these cases the very contrary of the charge has been proved. In the year 1700 a bill of pains and penalties was introduced into the House of Commons against a person named Knight for having forged a certain instrument. This bill passed the House of Commons almost by acclamation. In the House of Lords the feelings were different. In that House the votes were equal—the duke of Leeds gave the casting vote against the bill, and it was of course lost. The individual was afterwards tried for the same offence in Guildhall and acquitted! Thus by the vote of the duke of Leeds the Parliament was saved from the disgrace of having passed an unjust sentence on an innocent person,—from having given a vote in direct contradiction to the verdict of a court of justice. The same House of Lords, though they refused to find the earl of Strafford guilty when that nobleman was impeached, subsequently passed a bill of attainder against him, under which he forfeited his life. Is it possible, my lords, to quote a stronger case than this? The language in which history speaks of that nobleman's execution furnishes a solemn warning in future ages of the necessity of adhering to strict rules in the administration of public justice. The case of sir John Fenwick was, I acknowledge, a peculiar one; it was one attended with many criminal circumstances, and there was at least the appearance of necessity to justify it. But, with regard to the instances of Plunket, Kelly, and the bishop of Rochester, I must observe that, until I examined your lordships' Journals, I was not aware that injustice had been carried to such an extent. The bill against bishop Atterbury was passed on the written evidence of a dead person; and the bishop was not allowed to disprove the facts contained in the written statement. Thus evidence not admissible in a court of criminal law was received, and all opportunity of rebutting it withheld.

If this bill is to be supported on the ground of state necessity, then I suppose the party accused must be got rid of, whether guilty or innocent. No regard must be paid to the justice or injustice of the case. But if this exigent state necessity exists, your lordships have a right to have it clearly demonstrated to you. You surely have a right also to consider the danger which is likely to attend such a proceeding. In speaking of danger, I beg your lordships to consider that I do not, even in the most distant manner, allude to what is at this moment passing, or to what may hereafter pass, out of doors. I know that your lordships are actuated by that great maxim—*fiat justitia, ruat cœlum.* I know that happen what may your lordships are determined to do what you conceive to be your duty. But the danger to which I allude is of a different nature. I allude to the imminent danger in which such a measure as that now before your lordships will place the monarchy of this country. Suppose for a moment that this bill were passed, and that her majesty were to be divorced from the king, and degraded to any extent. In such an event, if the king were to marry again, and have a male child, are there not many, very many in this country who would entertain doubts of the validity of such second marriage, and who consequently would question the right of that child to succeed to the throne? I know that it would be ridiculous in me, as a lawyer, to dispute the power of an act of parliament. I am aware that the lineal descent has been regulated by acts of parliament, on various occasions; but I allude to public opinion, by which parliament itself has been sometimes controlled, and I ask what is there not to be feared to this country from a disputed succession? The title of Henry 4th to the Crown was recognised by act of parliament, as was also the title of Henry 6th. In the same year, the title of Edward 4th was recognised, and nine years after, Henry 6th was again recalled. I next come to Henry 8th. That monarch's marriage with Catharine was declared illegal; and Mary was, in 1534, excluded by act of parliament from the succession. After this came his marriage with Anne Boleyn. But, as it generally happened that the king, some how or other, got tired of his wives in a short time, that marriage was also set aside by act of parliament, in 1536; and both Mary, the fruit of the last, and Elizabeth, the fruit of the present one, were declared

illegitimate. Next came the marriage with lady Jane Seymour, which in four years after was annulled. But it appears that king Henry never got rid of one wife until he had got another in view. On the 28th of July, 1540, he divorced Anne of Cleves, and married queen Catherine Howard. Here we have in one reign a succession of acts of parliament palpably in contradiction to each other. I need not add, that both the children of Henry reigned successively, though the succession had been previously changed in favour of lady Jane Grey. But supposing that there was to be no fear of a disputed succession, still I would refer your lordships to what took place in 1809. I do not wish to revive unpleasant recollections, but I feel it due to my illustrious client to revert to that period. If vicious and licentious conduct be sufficient to remove her majesty from the throne, then I say that is an equally strong argument for removing a prince also. Then we have only to send for the evidence and letter which were delivered in 1809, and it might be said that others were guilty of all the crimes charged against her majesty—nay, much more. If then, this precedent were once established, the question would be, not whether this or that prince was the next heir to the Crown, but whether any one could be found to whom it could not be said, "you have been guilty of gross and licentious conduct within the last six years." If a measure of this kind can reach a queen consort, why not a queen in her own right? There is no clause in the bill which would prevent her majesty from reigning over these realms. She was nearly allied to the royal family in blood, and there was no strong improbability of her coming one day to the throne. There are at this moment the same number of persons (fourteen) between her majesty and the throne, as there was between William and George the 1st. If, then, a proceeding like the present is to be sanctioned, we shall have nothing but a succession of green bags, containing similar charges against the Crown or its next heirs. I should have thought, that instead of using the authority under which this measure has been introduced to give a sanction to these slanders, your lordships would have manifested a disposition to put down those calumnies (the more especially such as are levelled against persons in high authority), the dissemination of which has been for such a length of time the crying disgrace of this country.—The hon. and learned gentleman went on to say, that if a proceeding of this nature could be entertained in that House against the Queen, it was equally competent for it to entertain another one of the same description against the heir apparent, or the heir-presumptive; and he would add, justly so. If, again, by the introduction of a measure like that before their lordships, one peer could uncrown the queen, another peer might uncrown the king; and he would say further, that public opinion, which, after all, must dispose of crowns—and sceptres—and kingdoms, would receive the same bias with equal facility. He did not say that, in the further progress of the present proceeding, no justice would be done; but he did affirm this—that its principle was one calculated to operate, and fatally, upon the monarchy of the country. He well knew that there were numbers who maintained that the queen should have equal justice done to her with any other person, being a subject of the realm. It was contended by others, that were she a subject, she would have had such steps taken against her out of doors, as should in principle be the same with the pending measure: but he must say, that in regard to this particular proceeding, the case of the Queen was not parallel to that of any subject of the realm. [At this part of his speech the tone and manner of the hon. and learned gentleman seemed to indicate much exhaustion; and it was with some difficulty that we were enabled to collect the remainder of his observations.] This was a proceeding against the Queen alone; but he was quite sure that for that reason their lordships would not think her majesty the less entitled to that protection which every honourable mind must be ready to award her. That which was true with respect to subjects at large, was not true as of princes of the blood royal: for the situation which they held in the country necessarily made them objects of greater envy and detraction than individuals in a different sphere; and he did not know but that the example of the 6th of June last might be the cause of the creation and diffusion of a variety of slanders, originating at St. Omer's, and other parts of France, affecting many individuals, but principally that royal personage to whom 50,000*l.* per annum had been offered as the compensation for those rights which she demanded, and by whom that offer

had been refused. If their lordships would suppose for a moment, that upon this unfortunate occasion, any degraded person had, by some secret means, found admission into the palace of the queen, and it should appear that he had entered there with some treasonable intention of undermining her state and dignity, he would ask their lordships whether, even in that case, any surer or more effectual means could have been resorted to for such a purpose? He would ask, also, whether the case of the queen might not be made the example for the deposition of the throne also? He would ask another question—whether the experience of all former times did not bear upon the possibility of such a fact? It was very remarkable, but their lordships would well remember, that the origin of the French revolution was marked by calumnies and libels against the French queen—imputations against that unfortunate woman, which were coupled with slanders and insinuations against all that was pure, and noble, and honourable, in France. Their lordships would recollect that eventful and gloomy period, when the unhallowed hands of desperate men were raised against insulted royalty—a period which, as had been well observed by an elegant writer (Mr. Burke), all the beautiful delicacy of the female character was violated and despised—a period at which that modest sensitiveness, that sacred purity, which impose upon man "all those moral obligations which the heart owns and which the understanding ratifies," were lost in the licentious profligacy of the day; when it had become a common observation, that "a king was but a man—a queen was but a woman—a woman was but an animal, and that an animal not of the highest order." But their lordships would readily recall the glowing picture which that great writer had drawn of the illustrious family to which he had alluded; and they would deplore the unhappy consequences which must at all times be entailed, even upon the most moral, the most strict, the most virtuous persons that could ever sit on thrones, if these libels and calumnies were to be propagated, and inquiries instituted into the privacies of royal life, which were revolting to commanding understanding, united to correct feeling. The learned gentleman then went on to eulogize those distinguishing ornaments of female character to which he had before adverted; and to ask their lordships, what would be the consequence of encouraging a species of inquiry calculated to harm or destroy their delicate texture; and particularly as regarded their existence in this country, in the persons of those whom the constitution had vested with rank and authority? What, but the stripping of the throne itself of these, its most beautiful, most honourable ornaments, and the replacing it by that sort of pharisaical republic, which would then be erected upon the ruins of the English monarchy? But he knew that the greatness of the female character consisted in throwing from it, to an immeasurable distance, that species of impertinence and intrusion which would presume to violate, by unwarranted inquiries, the sanctity of domestic privacy; and upon these grounds alone he might rest his only and general defence, if it were necessary, of the Queen, against a measure intended to exclude from the throne her who ought to adorn it—who came here with every expectation, with every reasonable hope, of sharing it—and who, it was now attempted to be argued, had forfeited—not forfeited, indeed, but had lost—her just claim to it.

There was another subject of great importance to which he would allude, and that was, to the argument which had been advanced by his learned friend on a former occasion, founded upon decisions not only of the common law, but of the ecclesiastical courts, to the effect—that marriage was a contract, not merely of a religious, but of a civil nature. He did trust that their lordships would reconsider this point, involving, as it did, so important and sacred a consideration. He did hope that their lordships would be induced to-morrow to hear, upon this subject, his learned friend (Dr. Lushington), who would be much better able to explain to them the ecclesiastical law upon the matter than himself: but, if this indulgence should be refused, he should then ask the assistance of the noble and learned and reverend prelates, who sat in that House, to explain the subject more fully to their lordships. He had particularly to request that their lordships would consider the balance of evil upon this occasion; and that they would inquire what state necessity existed for the adoption of the present measure. In any result, he trusted, and he was sure that there would be, upon their lordships' part, nothing like a disregard or undervaluing of the sacred obligations and the civil and religious character of the marriage

tie; but that this inquiry being one founded in justice to the moral feeling of the country, that contract, and its grave and important nature, would never be lost sight of. Comparatively speaking, such an inquiry could do no possible good; but, as their lordships would perceive, in its termination might do much positive harm. And here he must repeat, that he did protest and object in the most solemn manner against bills of pains and penalties; and especially against a bill of pains and penalties, in which the scene was laid in foreign states, at a great distance from this country, and carried through a term of six years; and upon which the illustrious party had been denied a list of the witnesses against her—a privilege which the usage of inferior courts sanctioned and established in every other case. In point of fact, the application to their lordships, originally, was, that the substantial benefit might be given, and the inconvenience avoided; and this great principle might be recognised, it was submitted, but modified in any manner that to their lordships might appear most suitable and convenient. Now he said, that before a grand jury the witnesses publicly presented themselves to be sworn, and the indictment was founded upon their evidence. No man was left in the dark about the charge brought against him, or deprived of the opportunity of knowing what was the character of those who appeared against him. He felt justified in saying, therefore, that so far from having received any thing like favour at their lordships' hands, her majesty had every reason to complain of the course which had been taken. He again protested, in her majesty's name, against all bills of pains and penalties, but most solemnly against a bill of pains and penalties in a case which admitted of impeachment. He protested against their lordships declining those duties, which the constitution had imposed upon them, and undertaking one which it was not competent for them, and which they were never deemed likely to perform; from which no good consequence was likely to result, and in the discharge of which they must subject themselves to the probability of receiving a check from the other branch of the legislature. While he urged these considerations to their lordships, however, he must also strongly protest against any imputation that either himself, or those with whom he was acting, were declining the combat upon which they had entered. They pleaded against the manner, but they did not shrink from the trial. On the part of her majesty he might be allowed to observe, that it was painful for him to be compelled to allude to unpleasant circumstances affecting royal and illustrious individuals, or to revive the recollection of many past events; but he trusted that he should stand acquitted to their lordships for the faithful discharge of his duty to the best of his means and powers. He felt, also, that he owed to her majesty some apology, because, in the course of his argument, he had been necessarily, though hypothetically, led to suppose something like a possibility of guilt under circumstances which he was sure never could have existed, and from which her majesty's high honour would have revolted.—In conclusion the hon. and learned gentleman addressed their lordships in these words:—I beg to say, my lords, that whatever may be enacted—whatever may be done, by the exertions of any individual, by the perversion of truth, or through the perjury of witnesses—whatever be the consequences which may follow, and whatever she may suffer—I will, for one, never withdraw from her those sentiments of dutiful homage and respect which I owe to her rank, to her situation, to her superior mind, to her great and royal heart; nor, my lords, will I ever pay to any one who may usurp her majesty's station, that respect and duty which belong alone to her whom the laws of God and man have made the consort of his present majesty, and the queen of these kingdoms.

The *Attorney General* then addressed their lordships. He could not, he said, refrain from observing, after his learned friends had addressed their lordships with so much ability in this stage of the proceeding, that he thought they could have no reason to regret the election they had made subsequently to the objection which was taken yesterday; because (undoubtedly, in consequence of the license with which their lordships had indulged them upon the present occasion) they had had all the advantage which they possibly could have obtained in this stage of the proceeding, by statements of facts, which, although they were all introduced into this part of the case as facts, he must contend were not yet founded on the evidence before their lordships; by assumptions, gratuitously made; and by calumnies—(an expression by which he

meant not the slightest disrespect to his learned friends, but he must repeat it)—by calumnies, unsupported, at present, by any thing but their own assertion. He found himself, therefore, placed in this most difficult of all situations, prepared as he was, and had come there, to argue the only question which he understood to be before their lordships—namely, the principle of this bill. He was now driven, by the course which his learned friends had taken, to consider the facts of the case as they had chosen to represent them. He stood, therefore, under this disadvantage, that while their assertions would go forth to their lordships and to the world as having been made by them from their own knowledge of the facts, he was not, in this stage, at liberty to contradict them. The matter of that statement, however, was not before their lordships in evidence; but it had been reasoned upon, as if the whole of it were true and indisputable. Their lordships' passions had been worked upon, and their feelings led away by the eloquence which had been exhausted upon subjects foreign to the question before them. That simple dry question he understood to be this—"whether or not, assuming the preamble of this bill to be proved on evidence (because even his learned friends in their argument were obliged to assume that)—whether or not the bill was sustainable upon principle?" Such, as he supposed, was the only question for their lordships' consideration. He did, therefore, most solemnly implore, and most earnestly entreat their lordships, before he came to meet that part of the argument, to banish from their minds those impressions which could not fail to have been made upon them by the most eloquent addresses of his learned friends, and, in particular, by that which they had just heard. But giving that learned friend all due credit, and every due tribute of respect for the great eloquence and talents which he had displayed, yet he would say, that nine-tenths of his statement were wholly foreign to the subject before their lordships; and upon a calm and dispassionate consideration, he trusted that it could not have the least effect upon their lordships' minds in coming to a decision upon the only question which was now in truth before them—whether or no they would proceed in the inquiry? And then,—supposing it to be proceeded in, and that they should think the evidence satisfactorily made out the serious, grave, and at the same time disgusting charge against her majesty—whether their lordships would be prepared to say, that this bill should not pass; or that it had something so horrible in its principle, that it should not proceed, or be followed up by the enactments which were contained in it?

But now he came to argue this question, perhaps their lordships would allow him to recur to the manner in which it had been argued by her majesty's counsel. It had been stated, and to-day his learned friend had expressly admitted, that in arguing this case, the preamble of the bill must be considered as established by testimony; and yet their lordships were told of suborned evidence, perjured witnesses, calumniators, spies, and traducers. If all this were so, even—which he denied—it did not come before them at the proper time. This was not dealing with the question plainly or openly. It was tampering with their lordships' feelings, and treating the subject quite unfairly; because the question simply was—and briefly—whether this bill should not be proceeded in to all its subsequent stages, provided the preamble should be proved? But here he was in another difficulty. Another objection had been started by his learned friend to-day, who had gone through the preamble, and had attacked not only the manner in which it was worded, but had gone into the whole history of the manner (and he supposed it was competent for his learned friend to do so, by their lordships having permitted him) in which the bill had been framed and introduced; and then had proceeded to argue, that her majesty laboured under a disadvantage, from the proceeding which had been adopted, to which she would not have been liable in the case of a proceeding before a grand jury, afterwards referred to another jury. But he (the attorney-general) imagined that their lordships must have been satisfied, that no such proceeding, in this instance, could take place. If the acts in question had been committed in this country, they would have subjected her majesty to a charge of high treason, and to the consequences of such a crime. But by reason of their being alleged to have been committed with a foreigner, and in a foreign state, her majesty escaped from the charge and from the punishment of the offence: she became, on that account, not amenable to the law of high treason. His learned friends had dwelt at great

length—and, no doubt, with effect—on the circumstance of their lordships having referred the papers to a secret committee, and having introduced a measure upon the recommendation of that committee. His learned friend had stated, that a secret committee had been assimilated to a grand jury; but that, in the present case, they had proceeded upon evidence which no grand jury would go upon, and found on it a charge which no grand jury would find. But their lordships would allow him to ask, whether the secret committee had found any thing against the Queen, as a finding by them? According to the words of their report, they considered that there was a serious ground of accusation against the Queen from what they had seen; and, that, in their opinion, that accusation did so much affect, not only the character of her majesty, but the honour and dignity of the Crown, as to render some legislative enactment necessary. Then, with respect to the proceedings of this secret committee, the learned gentleman said, that the secret committee had not recommended this bill Why, they recommended some legislative proceeding, and that must be a bill. Such being the case, he would ask, whether any objection could be taken to their recommendation? He would affirm, moreover, that this was not only the most regular, but the only proceeding which could be adopted upon the occasion. But, whether it was or was not, at any rate that was not the question now before their lordships. They had already decided upon that point, by agreeing that it should be read a first time; and the question now was, whether it should proceed? It had been said, that the secret committee had proceeded upon unvouched documents, and on such alone. He had no reason for knowing what those documents were more than his learned friend; but he firmly believed, that to many of the depositions the witnesses had been sworn. But why was all this matter addressed to their lordships? It was not at all in point; they had already decided upon the matter; the bill was founded upon the recommendation of a legislative proceeding, recommended by the secret committee. One observation had been made by his learned friend, which he thought a very extraordinary one, coming from a lawyer as he was. He complained, that the preamble of this bill contained that which indictments at common law did not contain, namely, the evidence on which the indictment was founded—that the evidence intended to be brought forward against her majesty was recited in the preamble. But had his learned friend forgotten that even the common law, foreseeing the hardships which might arise in some cases—in cases of the highest crime known to the state, high treason—had enacted, that not only should the charge be stated in the proceedings, but the evidence also upon which that charge was brought? But who ever heard of a person so accused complain of this? So far from being a hardship, it was a benefit to the accused. Again, he was charged with not daring to call things by their right names, of substituting the words "adulterous intercourse" for the word "adultery." Now, in nine cases out of ten, it occurred in actions for adultery that the terms "illicit intercourse," "criminal conversation," "adulterous intercourse," &c. were substituted for the word "adultery" itself. Why then, he said, that with respect to the preamble of the bill, it stated what it was proper to state, namely, the facts that were to be proved. His learned friend who spoke last, had, on this part of the subject, enlivened his audience, with many comments on the nature and character of the indecent and offensive familiarity and freedom which the preamble presumed, and of the titles of honour which the queen had conferred. He had talked much of the different interpretations which would occur to different minds in judging of these terms. What might be thought an indecent familiarity with a menial in her majesty's service by one person, might be viewed more indulgently by another. All he should say in answer to these arguments, if arguments they could be called, was, that they were wholly out of their place. Let the time come when these facts were to be proved in evidence and their character exhibited, and their lordships would then have to judge whether the evidence justified the acts stated in the preamble, and of course the preamble itself. When his learned friend arraigned that preamble on the ground that it stated facts that were to be proved, and not a distinct charge, he in answer, should call the attention of his learned friend to all the bills of pains and penalties, and bills of attainder, which were to be traced in our history. If he were correct in stating that it was the uniform practice, what other course of proceeding, he asked, could be pursued

in the present case where the Queen was proceeded against by bill on a charge of an adultery?—an adultery not of an ordinary nature, but carried on under circumstances of peculiar aggravation, provided the facts stated in the preamble were substantiated by evidence. It was upon such grounds that the preamble of the present bill recited the deep sense their lordships felt "at such scandalous, disgraceful, and vicious conduct on the part of her said majesty." Let his learned friend look again even at the case of Dr. Atterbury, and he will find the same course was followed; he will find the motives stated which induced its enactment, viz. the existence of a traitorous conspiracy within the kingdom, and the fears that were entertained for the security of the Protestant succession. The grounds alleged in the preamble of the present bill were of the same public nature and import as those stated in the bill against the bishop of Rochester.

Thus much he had felt it right to state in answer to the arguments which his learned friend who spoke last had urged against the preamble. When the facts recited were proved in evidence, the great question which their lordships would have to decide, would be, whether such a substantiation of the truth of the facts should be followed by the enactment of the bill? It had been endeavoured by his learned friends to raise an objection to the bill, on the ground that the charges which it alleged against her majesty had flowed from slander and perjury. In the present stage of the proceeding, what right, he would ask, had they to argue upon such a gratuitous and unproved assumption? Where were the proofs to justify it? Their lordships knew nothing of them—they could not know any thing of them; and for what purpose such a line of observation was introduced, he would leave to their lordships to decide. In the same spirit, it was objected by his learned friend, that the present bill originated in a committee of that House, where no decisive opinion had been formed. He could not see the least strength in such an objection. The decisive opinion of their lordships had yet to be formed. It would be [illegible] a great injustice to her majesty had their lordships, in that previous part of the proceedings, ventured to pronounce a decisive opinion; it would then be imputed to them that they had forestalled and prejudged the question. Their lordships had wisely abstained from such a course. All that they had done was, to express their opinion that there existed grounds for a serious charge against her majesty.

His learned friend who spoke last, had with an air of levity recalled the attention of their lordships to all the steps taken to prevent the discussion of the present distressing question, and to prevent those evils, which, whatever may be its issue, must result from it; and as a natural deduction flowing from such exertions, he had been pleased to state to their lordships, what, in his judgment, ought to be the enactments of the present bill. With what justice could his learned friend draw such an inference? Was any charge distinctly made against the Queen, at the period when those exertions were made, and the negociation for a compromise commenced? Was it not the wish and object of that negociation to prevent the very evidence on which the bill originated, from being perused by any person in the country, even by their lordships? Where, then, was the ground for that air of triumph, with which his learned friend talked of what ought to have been the enactments of the present bill? The circumstances were altered—the facts before wished to be withheld, were communicated; they were recited in the preamble of the bill; and it was, therefore, for their lordships now to decide whether, if such facts were supported by evidence, such an enactment ought not to follow. To confound circumstances, applying to two different states of the question, and to endeavour to establish an inconsistency therefrom, could be for no other purpose but to mislead the judgment of those the orator was addressing, to lead their minds astray from the great question on which they had to decide.

Throughout the whole of the argument of his learned friends that had been assumed, which, at least, was extremely doubtful, namely, that in proceeding against her majesty an impeachment could have been founded. The whole of the argument against proceeding by bill of pains and penalties rested on the ground of their lordships acting in that case in their legislative, and not in their judicial capacity. When, therefore, his learned friends deprecated such a course, and contended for an impeachment, they were bound to have shown, that in the present case, an impeachment could have been maintained. That proof they had de-

clined; and their lordships, he trusted, would agree with him, that the wisest course which could have been pursued, was the one which was the least subject to doubt and uncertainty. Besides, he would confidently say, notwithstanding all those airs of triumph with which those objections were introduced—notwithstanding all the inflammatory language which accompanied their statement—that a very different character would have been given to the measure of proceeding by a bill of pains and penalties, had not that been the very measure, which in the present case had been adopted. It was adopted because it adverted to certain charges against her majesty, which, though of the gravest import, were not a violation of any law, while the best authorities supported the doctrine that an impeachment could not be maintained but for a breach of a law. Sure, then, he was, that notwithstanding all the challenges now so heroically thrown out, notwithstanding all those allusions to the morality of the country, and all those various topics so liberally brought into view, had impeachment been the proceeding adopted, his learned friend would have deprecated it, and have said, that the proceeding in the case of an adultery should have been by bill, and not by impeachment, because by the adoption of the latter course, the accused party was deprived of the power of recrimination. They complained of the proceeding by bill, because they were now shut out from recrimination, and strange to say, regret that the impeachment was not adopted; a course of proceeding which no lawyer would venture to assert, allowed the accused to recriminate! All this contradiction had its purposes; it was to terrify and to alarm, and to withdraw the minds of their lordships from the real question on which they had to decide. His learned friends had, it was to be recollected, taken this course, not in the exercise of a duty compulsory with them, but acting under an indulgence so very rarely allowed by that House, so rarely indeed, that the divorce case of the duke of Norfolk was the only one to be found where the counsel accused was allowed to interfere before the evidence was produced. Adverting to the manner in which the queen's counsel had characterized the tainted evidence, and, as they called them, the false charges, he remarked that it was not competent for them to make such allusions to the evidence before it had been heard, and, as far as he knew, he would venture to say that it was of as fair a description as had ever been uttered before that tribunal. It was as unjust as illiberal to attempt to traduce the character of those whose depositions were not yet known even to counsel themselves. His learned friends on the other side had introduced a variety of topics before the proper time, and by decrying the evidence ere the character of it was known, they had acted in a manner as unjust and as partial as could be conceived. The indulgence which the House had granted them of being heard against the principle of the measure in the present stage, had, in his opinion, been much abused; for, instead of limiting their arguments to the principle of the bill, they had launched into innuendos, insinuations, and assertions which ought not to have been made. Whatever respect he might entertain personally for his learned friends, it was his duty to observe that they did not stand there in the character of witnesses, and that therefore their lordships could pay no regard to their sweeping statements of facts, or to topics introduced with the view of influencing the House in its decision, though irrelevant to the question under consideration.

His learned friends had called their lordships attention to the protest which had been entered against this mode of proceeding in the case of bishop Atterbury, and which had been drawn up by the then lord chancellor Cowper. [Mr. Brougham whispered to the attorney-general, that lord Cowper was not chancellor at the time he protested against that bill.] True, he was afterwards lord-chancellor; but he wished their lordships to observe, that one of the principal objections recorded in that protest was, that proceedings of this kind were in their nature, though not in form, judicial. In a case such as this their lordships were sitting to receive evidence, and though their functions might not be so purely judicial as in a case of impeachment, still they were bound to look at the evidence as scrupulously as if the present were a trial by impeachment. Did his learned friends suppose that their lordships were on this occasion to abandon that high principle of judicial impartiality—that they were not to regulate their decision by the evidence, but that their minds were to be swayed by some base motives different from those which operated on

them in cases of impeachment? When his learned friends addressed their lordships on such topics, he was confident that their arguments would have no influence; for this, though not in form, was in substance a judicial proceeding.—Another principal objection urged by the professors in the case of the bishop of Rochester was the proceeding by bill, instead of articles of impeachment, which necessarily brought the question under the decision of two tribunals, and thus in fact allowed two trials instead of one. They thought that the greatest mischief of the course pursued consisted in their lordships giving up the judgment which belonged to them, and transferring it to another tribunal not so competent to conduct a judicial investigation, and where popular feelings and passions were likely to have greater influence. But this, looking at what was passing out of doors, was not an objection which the Queen was likely to take to the present mode of proceeding. Indeed, he should have thought that this protest would have been the last thing that his learned friends would have referred to; for it proceeded on the nice sense entertained by the protesters of the dignity of the House, and their unwillingness to have its judicial functions transferred to the other House of Parliament. What was the other objection to the proceeding by a bill of pains and penalties? It was this, that the bishop of Rochester was amenable to the common law tribunals of the country. Why, said the opposers of the bill in that case, adopt an extraordinary mode of proceeding when the ordinary judicature of the land was open to you? What was the fact in the present case? It was this, that no proceeding in the criminal judicature was open. This opinion, before contended for, was now confirmed by the first authority, that of the judges of the land. Had such not been his opinion, had it not been upheld by the decision of the judges, had there existed a power of bringing these charges before any of the branches of the criminal judicature of the country, he (the attorney-general) would never have presented himself to exercise that duty, in the discharge of which he appeared that day at their lordships bar. He would say further, that under such a supposition, in language as strong as that employed in the protest on the Atterbury bill, he would have deprecated such a procedure. Do not, he would have said, bring in a bill of pains and penalties, if it be open to you to submit these charges to the decision of a jury of the country. That question however, was now set at rest, and he rejoiced it was so; because he well knew that there were many conscientious and honourable persons who had doubts on the subject, and who had a right to demand that those doubts should be satisfied. That uncertainty was now removed; and he boldly challenged his learned friends to the argument, and defied them to produce a single case in support of their assertion, that the facts alleged in the preamble of this bill would bear out an impeachment, and that, consequently, an impeachment was the course that ought to have been adopted. Though he was not prepared to say that an impeachment could not be resorted to in even a doubtful case, yet, if there was a doubt as to the competency of that mode of proceeding, he contended that that was a sufficient reason for pursuing another course.

Thus, he conceived, an answer was furnished to the only point he had heard advanced against the principle of the bill, excepting those declamatory topics which his learned friends had thought proper to introduce, but which he should not presume to follow up. How should he be arraigned if he so far forgot himself as to expatiate on the enormities of the charge contained in the preamble of this bill against a person of the high rank of queen, then indeed a princess, but niece to the late king of Prussia, and next in rank to the queen of England? How should he be arraigned by his learned friends, if he in the present stage were to enlarge on the evidence about to be produced! The pain of the task would be great enough, God knew, when the necessity arrived! From all reference to those declamatory topics which so well belonged to them, and which with their splendid talents they knew so well to enforce, he was bound, by a commanding sense of duty, to abstain. How, he would ask, would his conduct have been arraigned had he ventured to expatiate on the enormous criminality of the charges which the preamble of the bill set forth, committed by a princess destined to be elevated to the splendid station of the queen of these realms, or had he even alluded to the variety of evidence by which such charges would be substantiated? That course no inducement should have influenced him unnecessarily to take. When the proper time arrived that duty

may devolve on him, and as a duty nothing should deter him from its faithful discharge, although he felt sensibly how he must suffer under the disgusting, licentious, and vicious disclosure which then would be exhibited. His learned friends might prejudge; they might prejudice; they might assail the characters of the most eminent and illustrious in rank and station; they might rake from the shades of oblivion all those prejudices or failings over which the healing spirit of time and more correct feeling had, in consideration of his many virtues, thrown a veil—they might select the moment when an illustrious individual (the duke of York) was next in succession to the throne, when the remains of his illustrious partner had been just consigned to the grave, to wound his feelings, and revive recollections which a better feeling had never disturbed;—all these things his learned friends might do with impunity; to him it was only open to state the facts which he should call upon evidence to sustain. They might declaim on the bribes by which that evidence was obtained, and animadvert on the nature of the motives which they presumed to operate on the minds of some of their lordships. All that remained for him was to conjure their lordships, and he knew he did so not in vain—to dismiss all such inapplicable statements from their minds, and to apply themselves to the great and important question, on which, in fact, they were called in their judicial character to pronounce.

He next came to the only argument, for he might say one solitary argument comprised the whole speech of his learned friend yesterday, on the principle of the bill. It was this, that the present proceeding was the adoption of an *ex post facto* law. He did not deny it. What was the case? An offence marked by our ancestors as the highest that could be committed against the state, had been committed by her majesty. When he said committed, the words were to be understood as used for the sake of argument. If the offence had been committed in this country it would have subjected her to the sentence and punishment of death. Committed abroad with a foreigner, it came not within the penalty of the law. From an accidental circumstance, therefore, it fell not within the provisions of the statute enacted to guard the succession, although such statute was not confined to the mere effect of security to the succession. From the preamble of the bill, it appeared that such adulterous intercourse was carried on with a menial in a very low station in her majesty's service, and continued under the most indecent, licentious, and disgraceful circumstances. Was this not an offence to be looked to by their lordships? Was it because it was not high treason within the law, that it should pass by unchecked and unpunished by the state? It was thought not in law high treason; yet in the moral sense it amounted to that crime. To say that because it was thus committed, and in a foreign country, and therefore ought not to be punished, merely because the proceeding would be an *ex post facto* proceeding, would go to destroy the principles on which all divorce cases were sustained. All such proceedings were a deviation from the principles of the common law, and were adopted on specific grounds. The law of the land said, that the marriage contract was indissoluble, but the complaining party said it was violated, and came to their lordships to pass an *ex post facto* law, to annul the marriage, and degrade the offending party. The consequence of a divorce was, to degrade the party from the rank formerly enjoyed; and thus, though it was not a bill of pains and penalties, its effect was the same. But it had been argued by his learned friend, Mr. Brougham, that the Queen should not be made responsible for her conduct, because she had no notice that she was doing wrong. Her majesty was therefore to say, "True, I have been this abandoned being; I have committed this scandalous crime; but I have come to England, and you must not punish me." In reply to this, he would say, "Because the crime has been committed with a foreigner, by which it is only rendered the more scandalous and degrading to the country, we cannot punish it by the existing laws; but we cannot allow it to pass with impunity, and therefore we will annul the marriage with the monarch."

This he conceived to be a sufficient answer on that point, and he should therefore proceed to the next argument advanced on the other side, which was, that the charges in the preamble of this bill will support an impeachment. Some persons thought it doubtful whether an impeachment could not be sustained for an offence not known to the law of the land; and in support of the opinion that it could, the case of lord Somers had been

referred to, who was impeached on account of the partition treaty. He apprehended, however, that high official persons were guilty of a misdemeanor if they neglected or violated their duty: if any public functionary abused the power with which he was invested, he was guilty of a crime against the state. [One of the Queen's counsel repeated the word "crime!"] He was not to be thrown out of his argument by the repetition of this word; and he would again assert, that a public functionary misconducting himself as he had supposed, would be guilty of a crime, and might be impeached. The learned gentleman then quoted the authority of judge Blackstone to show that an impeachment might lie for any offence known to the law of the land. But the guilt of the Queen being committed abroad, was not known to the law, and therefore could not be reached by impeachment, according to the doctrine of Blackstone. A public functionary like lord Somers, might be impeached for a breach of his official duties; but that case was not analogous to the present. He defied the other side to produce any instance of an impeachment for an offence not known to the law of the land; and if they could not produce such a case their argument must fall to the ground. But even if the point were doubtful, their lordships were right in adopting the present course, which, among its other advantages, gave the accused the benefit of an additional tribunal,

The house had been addressed on the expediency of the measure, but that was not the question for their lordships consideration at present. What, he would ask had her majesty just now to do with that question? Her guilt or her innocence would not be affected by the expediency of the measure; she courted inquiry, and this bill was the same to her in that respect as an impeachment. Again, it had been said, that their lordships were now visiting on her majesty what she had done as Princess of Wales. This topic seemed also to have been introduced more for the sake of effect than of argument; but, like many other points dwelt on by his learned friends, it was wholly destitute of solidity; for, as Queen, her situation, in point of responsibility, was the same as when Princess of Wales. If the alleged crime had been committed in this country, she would have been equally amenable to the laws in both cases; and by being committed abroad, it rendered her situation the same in either station. She was deprived of no advantage on the present occasion to which she would have been entitled as Princess of Wales, and therefore on this ground she did not experience that inconvenience which had been represented. Again, it had been said that this bill was introduced with a view to the private interests of the king. What! In a case which would have been one of high treason if the offence had been committed in this country, was not the crime, in the eye of reason equally to be visited as a public offence, although committed abroad? If our ancestors thought that adultery in such cases ought to be visited with the highest penalties of the law, did they not consider it a public offence? Had they guarded it in such a manner by the statute of Edward 3rd, and yet were their lordships and the country to say, that a Queen who had committed the crimes charged in the preamble of this bill was fit and worthy to sit on the throne of these realms? Be it as his learned friends had said, that their lordships were not to pass this bill unless such evidence of the adultery was produced as would satisfy a jury, he should say, that if the charge of adultery was not proved, the question would arise, whether any of the enactments of the bill should remain on the proof of the other parts of the preamble, if the other parts were substantiated by evidence. His learned friends said, "You are to retain your enactment even if the adultery is not proved;" and to this he would reply, that the present was not the proper stage for the consideration of that question, for counsel were not to anticipate what their lordships in their wisdom might think proper to do in that event.

He was aware that in going over the arguments of the learned counsel to whom he was opposed, he might have omitted many points on which they had dwelt. He knew he had passed over the declamation in which they had indulged, and he conceived that there was an imperative call on him not to follow them in that course. He felt that he was addressing a grave assembly, composed of persons of the highest rank, attainments, and honour, in the country; and he knew that on such an occasion appeals to the passions, however they might excite admiration for the advocate at the bar, would ultimately be of no effect. Their lordships were not to

be made either by intreaty, by hints, or by menaces, to swerve from the straight forward path of duty. He was aware that this, as it had been called by his learned friend who spoke last, was a tremendous inquiry: he knew that the peace of the country might be affected by it; but he knew also that clamour would have no effect on their lordships minds, he was not appalled, he did not fear for the future; he had such confidence in the good sense of the country, that he felt assured when the facts were before them which had hitherto been concealed, and in ignorance of which their minds had artfully been wrought on, they would see the necessity and the propriety of the course that had been resorted to. The question was a momentous one, affecting not only the parties immediately concerned, but the dignity and honour of the country itself. If innocent, however (concluded the learned gentleman), the party accused need not fear your lordships' judgment. If guilty, I am sure that nothing can be stated which will induce you to swerve from the path of duty; but that, fearless of popular clamour, you will put your hand to your hearts, and decide conscientiously and justly. By your lordships' decision you will satisfy the public, that while the meanest subject in the realm is protected by innocence, the highest subject cannot offend with impunity.

The *Solicitor General* followed on the same side. He began by saying, that he had also to trouble their lordships on that which had been properly characterised as a most important and most momentous question. He confessed that he participated in the feelings which had been expressed by the attorney-general respecting the conduct pursued by the learned gentlemen on the other side. He had understood that they came to their lordships bar calmly and temperately to discuss a grave, dry, legal, constitutional question: such he conceived to have been the question proposed by the House to the counsel on both sides. But his learned friends, deviating from this course and indulging in personal invective, had accused the individuals who had instituted this proceeding of the most corrupt conduct, and had charged the persons who assisted in collecting the evidence, with subornation of perjury, and the most horrible violation of justice, in attempting to make out a case against the high personage accused. The learned gentlemen, by the foul and unfounded aspersions which they had cast out, had put themselves out of the situation of defendants of this case. The charges which they had advanced were wholly unfounded: he dared them to the proof, and he well knew what would be the result of the trial as to the conduct of the individuals directing the proceedings. He had said, that the question in his view of it, was of the most simple description. The Queen consort, committing adultery with a person owing allegiance to the Crown, was guilty of high treason, whether the crime was committed within the realm or abroad; that was the law of the land. But by a refined and technical distinction, which had given occasion for much debate and serious consideration, and on which the opinion of the judges had been taken, it turned out that this offence, if committed with a foreigner abroad, however vicious, abandoned, and scandalous it might be, was not only no treason, but was not even cognizable by the law of the land. But did it therefore follow that it was to pass unpunished? In arguing the question, he was forced to assume the truth of the allegations contained in the preamble of the bill: for the learned gentlemen on the other side contended that if any thing charged were proved, the bill ought not to pass into a law. On the issue of that question he would meet them, and he should assume, for the sake of argument, that all the facts were made out to the satisfaction of that tribunal. Well, if the Queen consort was guilty of a crime but one shade removed from the highest crime known to the law—of the deepest dye either in a religious, a moral, or a civil point of view—was a person so regardless of what she owed to the country, to the Crown, and to her rank, to sit on the throne by the side of the monarch of these realms? It had been argued by his learned friend, who spoke yesterday, that because this was no crime known to the law of the land, no penalty or punishment should attach to it, and no inquiry should be instituted respecting it; and then both he and his other learned friend had gone on to say, that if any proceeding were resorted to, it should not have been by a bill of pains and penalties, but by articles of impeachment. Now, as to the first of these positions, he was confident that barely stating the facts would be sufficient to ensure their lordships decision in favour of the view he took of the question; for could he address an assembly of men of

honour, stating that such scandalous conduct had taken place, and at the same time affirm that the person who had been guilty of it was worthy to remain upon the throne of England? There were two courses that might be adopted—the one the bill now upon the table, and the other an impeachment. What was the nature of that bill? In the preamble the offence was charged, an offence committed with a foreigner abroad, and therefore not cognizable by the ordinary tribunals of the country. What did the bill enact? A dissolution of marriage, and a deprivation of rank and dignity. Was this, or was it not, an enactment that ought to follow on the proof of the facts of the preamble? For the sake of his argument, he assumed that they could be proved: and was the sovereign in this respect to be placed in a worse situation than any subject in his realm? If a case of adultery were established before the House in the case of the meanest individual, divorce followed of course: and had not the king the same privilege? This was a bill of pains and penalties; but in every common bill of divorce the same consequence followed, the same penalties attached. The Queen was to be deprived of her station and dignity; and if the wife of a peer committed adultery, she suffered the same degradation. A bill of divorce, therefore, was a bill of the same nature and character as that now before the House.

With great gravity, and with a power of eloquence seldom equalled, the counsel on the other side had endeavoured to impress their lordships with a notion that this was a new case, that it was out of the ordinary course of proceeding, when, in fact, it was only what happened every day. Next, it was said to be an *ex post facto* law; but, trying it again by the same test, every bill of divorce was an *ex post facto* law. These observations dispensed with the necessity of answering that part of the argument where the supporters of the bill were called upon to make out some strong case of necessity, and he appealed to the House whether there ever was a bill of pains and penalties more called for, assuming that the evidence established the preamble. Was it to be tolerated in this kingdom, that such an offence, and such a series of conduct, should be passed over with impunity? Was it to be tolerated that an individual so demeaning herself should fill the highest station in the country, and should continue to set an example of such pernicious and extensive operation? Looking at the case of the bishop of Rochester, sir John Fenwick, and others, he should say that if this were to turn on the point of necessity, the necessity dictating those measures sank into nothing compared with the paramount compulsion for the present bill. He agreed in what had been urged on the other side, though suggested in the shape of a charge, with respect to the possibility of avoiding these discussions. Silence upon this subject could hardly be purchased at too dear a price; but the moment the Queen challenged inquiry, the moment she asserted her innocence, the moment she sat her foot in the country and claimed her rank and privileges as Queen consort, it became impossible to shun this dreadful proceeding. Let them insist that great concessions and sacrifices were offered as the means of arresting it; but her majesty, relying, it was to be presumed, on her innocence, had put an end to the possibility of trifling with the subject, and made it absolutely necessary to proceed. The Queen's attorney-general had referred to most atrocious instances of violence. He had quoted the attainder of Mortimer and its subsequent reversion, but it had no connexion with this case. The precedent of lord Strafford was equally irrelevant. When the popular party failed to make out a case of treason against Strafford, he became the victim of a bill of attainder, and the reasons for its reversion were stated with equal eloquence, from the beginning to the end of the preamble. When the bill of attainder was brought into the House of Commons, it was known that it passed in consequence of the immense multitudes assembling day after day to overawe and intimidate its members. A similar cause had forced it through the Lords, and the manner in which a reluctant assent had at last been extorted from the unfortunate Charles was well remembered. Was it extraordinary that such a bill should have been repealed, or did it form any objection to the principle of bills of pains and penalties? Were they not as old as the law and constitution of the country, and were they not an essential part of that law and constitution? Was there any well-wisher to the popular and free part of our constitution who would wish that portion of it to be rescinded and abolished? The measures now on the

table followed as nearly as possible those bills of divorce which every session were brought in and passed without a murmur. The Queen's attorney-general, with a kind of candour for which he could not, thank him consented to pass over the reign of Henry 8th, though in a subsequent part of his speech he again dragged it forward. If any precedent existed of that time applicable either to the law or the facts of this case, let them be boldly and fairly stated, and they should be as boldly and fairly met. He was not afraid of charges openly made; but for dark insinuations, for distant and oblique hints, in which the Queen's attorney-general so abundantly indulged, and in which he was so eminently successful he had no great predilection. He repeated, if instances were to be brought from any period of our history, however bad the time, or however arbitrary the monarch, let them be boldly and manfully stated, and the supporters of the bill had nothing to fear.

It was asked, as this was a bill of pains and penalties enacting divorce, who was the complaining party? In ordinary cases, said they, bills of divorce are not passed unless the husband appears and gives his consent to the rescinding of the matrimonial contract. True it was, that the king was not here the complaining party: it was inconsistent with his high character and station to come before this court as the complaining party; but, knowing the facts of the case, he pursued the course befitting his dignified and princely capacity; he ordered the papers to be laid before the parliament, that it might deal with the case as to its wisdom might seem meet. Thus he became a consenting, though not a complaining party. When the Queen's attorney-general had stated that he would not enter into the question of recrimination, he had acted with perfect propriety, recollecting the question before the House; recrimination had nothing to do with that question; it had nothing to do with the principle of the bill, though it might hereafter remain to be decided, when the case on one side was closed, how far recrimination should be allowed. But the Queen's solicitor-general had not followed in the steps of his leader, he had gone at large into the question of recrimination. His mind and habits of reasoning must have revolted at the course, because he knew that it was inapplicable. It had been the misfortune of these proceedings, from the commencement, and throughout every stage, that collateral topics, calculated to excite prejudice, and to inflame the passions of the multitude—to create distraction in the country, and to shake the very foundations of the monarchy, had been introduced by the professional and unprofessional advisers of the Queen. He deeply lamented the fact: whether the same course were still to be pursued he knew not, but judging from the past, he had little to hope for the future.

He took it for granted, then, that it would not be denied that some remedy was necessary, and the great majority of their lordships, he trusted, would be of opinion that the remedy before the House was that which ought to be afforded. It was, however, urged on the other side, that the Queen ought to have been impeached; but he relied on the authority of Mr. Justice Blackstone, cited by his learned friend, to show that there existed no case of impeachment not founded on some crime known to the common law, or on some malversation or misconduct in a public officer. On this point he begged to be understood as not expressing a confident opinion, but as stating at least a strong doubt whether impeachment in this case could have been maintained. Giving the other side the benefit of this doubt, would it be contended that a remedy ought to have been sought in a mode that on all hands admitted so much argument as to its legality. Had impeachment been resorted to, the counsel for the Queen would have been the loudest to arraign that course—they would have insisted that it was inconsistent with the law and constitution of the country, that it was inadequate to its end, and that it was attended by a multitude of hardships to the accused. Besides, what sort of remedy would it afford to the injured party? Was it appropriate to this case? Could any punishment be inflicted under it but those which went to the life, liberty, or property of the offender? An impeachment could not divorce—it could not degrade from rank and dignity, though it might inflict capital punishment, and direct imprisonment. If what he now stated were not universally assented to, he wished those who dissented to point out any case of impeachment which did not range itself within the class he had mentioned. When, however, the other side talked of the benefits resulting to the accused from

impeachment, he confidently asked, what advantage she could have then enjoyed which her majesty would not now possess in a superior degree? First, the accusation must have proceeded from the House of Commons, and it must have been built on previous inquiry. It would then come before their lordships, where the inquiry must be renewed. In a proceeding by bill, on the other hand, the witnesses on both sides having been examined here, it would be sent down to the other House; nor did it follow as a necessary consequence that it would pass there: at least the examinations must there be renewed, and every means would be afforded to her majesty of meeting the case. Nor in an impeachment would the charge be of a more specific and more distinct nature than in this bill. It was said, that in an impeachment, time and place must be stated; but here all that could be specified had been specified. The name of the adulterer was inserted, but the adultery was extended over a period of years, and was not confined to one, two, or three kingdoms: it embraced a considerable portion of the globe, and how then could it be more accurately defined? The learned counsel on the other side had also run away with a notion that it was unnecessary to be as precise in an impeachment as in an indictment; but if they looked only at the precedent of Sacheverell, they would find themselves mistaken.

He had thus endeavoured to show that the proceeding by bill was distinctly applicable to this case, and that it was analogous to the proceedings of parliament, while an impeachment was inconvenient to the parties, inadequate to the remedy, and productive of no advantage to counterbalance the doubts and difficulties attending it. If, then, a choice must be made, why was this bill to be rejected? Having said thus much, it appeared to him that he had argued the whole question without going out of the way to call the attention of the house to collateral matters. Another objection had then been taken, and it was said that the law did not apply to the state of her majesty as Princess of Wales, and her attorney-general had contended, that she was entitled now to all those advantages to which two or three years ago she would have had a right, *nunc pro tunc*. But the situation of the wife of the Prince of Wales was precisely the same as that of the wife of the King, as far as related to the imputations in the bill: and if the offence had been committed at the time when her majesty was the wife of the Prince Regent, the same reasons of policy governing the present proceeding would then have applied. Next it was said that marriage was a religious contract, and that the house ought to be careful how it severed the holy knot; but the same argument applied to every bill of divorce: adultery dissolved the tie, and set the parties free, so that it had no application to the present proceeding. The language of the preamble had been criticised; this was no offence, that was no offence, and a third charge was no offence. Taking them separately, he agreed that it was so: one, two, or three facts in the preamble might not amount to any offence; but taking them collectively as parts of a whole, they constituted an offence of an enormous character. What did the preamble state? That the Queen of England, then wife of the Prince Regent, went to Italy; that she engaged a menial servant, long in a similar situation, as an attendant; that great familiarity and improper intimacy very shortly afterwards took place between them, and that she loaded him with favours and honours of every description; that she fenced herself round almost exclusively with his relations; that in the eyes of the whole world a degrading and disgusting intercourse was held between them; and that this licentious and adulterous conduct was pursued for a great length of time. Would any man contend that this charge was not stated in language so precise and distinct that it could not be misunderstood? No man who did not wilfully shut his eyes could mistake it. Then the terms "adulterous intercourse" were cavilled at, for there was nothing however small that escaped observation, or however great that was not forced into the discussion. But as to this, his learned friend the attorney-general had given a satisfactory answer, which showed how lax and sluggish the other side were to discover any thing militating against them. The great majority of bills of divorce stated, not that adultery had been committed, but that an adulterous intercourse had been carried on, and a succession of adulterous acts were charged in the preamble of the bill. The counsel for the Queen seemed to think that there was no difference between adultery committed by a man and by a woman. This

was a most extraordinary proposition, whether considered legally or with reference to its effects upon society. Adultery in a man was in no way punishable, and it could not be made the subject of a bill of divorce. But why was this topic introduced? For a most strange and unjustifiable purpose. He should have thought that the common feeling of delicacy and humanity which he knew pervaded the bosoms of his learned friends, would have compelled abstinence at least on this point. It was an unwarrantable, because an unnecessary, attack upon an illustrious personage, whose conduct had been twice dragged before the house. His great talents and popularity throughout the country might at all times, but more particularly at the present moment of domestic affliction, have shielded him from so cruel and so wanton an assault. Knowing from what quarter it proceeded, it filled him with surprize and amazement.

The attorney-general for the Queen had asserted that there were some individuals who encouraged her majesty to go abroad; and both her counsel had intimated in terms too distinct to be misunderstood, that there were those who wished that she should leave the kingdom, that she might fall a victim to one of the most foul conspiracies that had ever entered into the heart of man. He mentioned this as an indication of the spirit and temper with which this discussion had been conducted, and of the strange infatuation that seemed to prevail in some quarters. Was it meant as a charge against ministers? Was it possible to suppose that such detestable wickedness could enter into the minds of the basest in society, much less into the minds of men refined by education, polished by intercourse with the highest classes, and raised by their talents to the highest functions of the state? Could they invent such a plot and concert such a diabolical conspiracy? But it was of a piece with the rest: it was of a piece with the spirit which had censured the great anxiety felt, that the Queen should continue on the continent, and for which such a sacrifice would have been made. If that proceeding deserved condemnation, all the parties who were actors in it were equally to blame. The man who received, the man who bore, and the man who assented to the proposal, were to the full as bad as the man who made it. But he believed that no blame was to be imputed to any person; he believed it was the best advice that could be given, and he wished to Heaven that it had been followed. He would not trouble the House further; he was sensible that in his observations for the last ten minutes he had been deviating from the course he had prescribed to himself; he had been following the wandering course of his learned friends into collateral matters unconnected with the real question before the House. First, it was to be decided whether any proceeding should be instituted: if any, two modes presented themselves—by bill, and by impeachment; and he was persuaded that the House would not abandon the measure it had adopted for one liable to so many and to such important objections.

Mr. *Brougham* proceeded to reply.—I confess, my lords, that after having given the utmost attention to the arguments which have been urged by my learned friends who appear as counsel against her majesty, I feel myself hardly called upon in the discharge of my duty to my royal client to avail myself of the usual privilege of reply. At all events I purpose to confine myself to a very few topics among those which have been urged by my learned friends. With this view, and with the full intention of keeping a promise which is more frequently made than observed, I purpose, without further preface, to solicit your lordships' attention to several of those topics. First of all, suffer me to observe, that a general and somewhat vague charge has been adduced of our having deviated from the point stated to be in issue before the House, namely, the principle of the bill. It has been said that I have gone into arguments which belong to another stage of the proceedings, and that I have entered into a great mass of collateral matter in no way relevant to the matter in issue. I think my learned friend would not have brought forward this charge, if he had adverted to the manner in which I submitted my arguments to your lordships' notice. Suffer me to remind your lordships, that I set out with stating that this was a legislative proceeding. The question was, whether a new law should be made by parliament, and in making objections to that new law, every argument was relevant which had a tendency to arrest the course of the legislature? We stand in a very different situation from that in which we should have been placed, if we had had to meet articles of impeachment, or to defend in a proceeding by

indictment. In either of these proceedings we should have been strictly and rigidly confined to the charges without the possibility of entering into any collateral arguments, until the question should arise, whether punishment should be awarded. Here, on the contrary, we are placed in a different, or rather an opposite predicament, in which we are called upon to argue whether this bill shall or shall not proceed; and this broad distinction lets in every argument of expediency, every view of the necessity which does or does not exist for making this law at all. It lets in by a just inference, every one of those topics, which were not vaguely and irrelevantly, but strictly and technically urged by myself and my learned coadjutor before your lordships.

In recalling your lordships' attention to the arguments which have been urged on the other side, I cannot omit the eloquent and elaborate eulogy which my learned friend the solicitor-general thought fit to pass upon bills of Pains and Penalties in the abstract. They are, it seems, an integral part of our constitution. These are an ancient branch of that happy form of government, intimately mixed up and interwoven with the whole frame of our civil and judicial polity. They are a sacred branch of the happy constitution of England; and God forbid, says he, that any man who values the popular branch of that constitution, should wish to see them abolished! Without subscribing, as a lover of the popular branch of our constitution, to the solicitor-general's praises of bills of Pains and Penalties—for the constitution includes, I conceive, the just and pure administration of the laws, and embraces all that is valuable, and loved, and respected for securing them—I do not mean to deny what is admitted in the language of lord chancellor Cowper, that cases may by possibility occur, which would not only justify, but enjoin the enactment of a bill of Pains and Penalties. But it lies upon my learned friend, or his employers who bring forward such a bill, to descend from his general eulogy, and draw from thence an eulogy of this particular measure—to demonstrate the necessity which almost justifies, and, when it justifies, may be allowed to exact the enactment of so extraordinary a measure. The solicitor-general has addressed your lordships in the language and tone of an advocate, who forgets every thing that does not make for his cause, and who is not over scrupulous in substituting matter that does make for it; but your lordships, who are not influenced by such prejudiced views, and who do not labour under this professional obliquity of vision, cannot but recollect, that if the absolute necessity for this proceeding be not shown, the bill ought not to proceed farther. But I am told that it is too late to argue this question, that your lordships have decided the matter, that the bill has been received and read a first time, and that there is now an order upon your lordships' table for proceeding to the second reading. If this be so, my lords, we are indeed mistaken; for we have ventured to apprehend, that though the bill has been received and read a first time, we were not shut out from being heard against the principle of the bill. On the contrary, my lords, we conceive, that for these very reasons—because your lordships had received the bill, and read it a first time in the absence of the parties affected, and without hearing arguments either from or within the bar, without listening to the reasons which might have convinced your lordships that no necessity existed for such a proceeding—for these very reasons, my lords, we felt persuaded that your lordships would not now refuse to hear us. Conceiving this to be the situation in which we were placed, we reminded your lordships yesterday and to-day of those reasons, and it now only remains to make a few farther observations, passing over a multitude, which I think I could successfully urge to your lordships, and confining myself to those points, upon which my learned friends on the other side seem more especially to rely.

Now, my learned friend the attorney-general has thought proper to make a general and somewhat sweeping criticism upon the argument, which have been urged to your lordships against the bill. After all the attention which he could give them, it seems, that amidst a great mass of matter, he could only find one thing, which bore the semblance of an argument. In leaving me this one poor, unhappy argument, amidst a large mass of declamation, my learned friend has at least dealt with me more fairly than the man in Nathan's parable. The reason for proceeding by impeachment, is what my learned friend considers an argument. An impeachment, however, says the attorney-general, does not lie. The attorney-general and myself are at issue upon the

law, for I contend that an impeachment does lie, and that this bill ought not to be proceeded in. We contended before your lordships, that this proceeding should not be had, because impeachment was the constitutional course, and that this measure should not be gone into, because, under all the circumstances of the case, it was most unnecessary and inexpedient. Now, to grapple with the argument as to impeachment. My learned friend did not show any remarkable degree of confidence, for no sooner had he said that our law was wrong, then he added, if it was not wrong, it was at least extremely doubtful. He first begins by asserting that impeachment does not lie, and then my learned friend turns round, and says impeachment is a very doubtful proceeding. My learned friend appears to be but little read in constitutional law; and if a scattered passage is all he can bring forward against whole pages and volumes which may be opposed to him under the title of the law of impeachment, his experience in matters of constitutional law is indeed but of yesterday. What! no impeachment competent where no law has been violated? Why, the whole jurisdiction of the House, a jurisdiction which, in the words of lord Coke, was so large, ample, and capacious, that it acknowledged neither bounds of time or space, rested upon the general principle, that impeachment lay in such cases. If there is one maxim in our constitutional law more fixed and irrefragable than another, it is this—that where mischief has been done, and no remedy is otherwise to be obtained, impeachment is the competent redress. My learned friend has taken upon himself to say, that impeachment is not competent, except against persons in a public and official capacity. Now, what is the reason that impeachment lies in the case of misdemeanors committed by public functionaries? It is because no remedy is to be obtained elsewhere, and the distinction applies only to cases in which no indictment can lie. It is because a wrong has been done, and the interest of the state requires that it should be punished; that parliament has the power of seeing right done, of taking care that justice is administered and punishment awarded.

But does not the principle admitted by the attorney-general apply to this very case? Is the Queen consort a private person? Is the Queen consort a person endued with no rights, privileges, and immunities? Let the attorney-general look at his books, which he appears to have only half read, and a quarter quoted, and he will find that no person, under the officer who wears the diadem, is more recognized in a public capacity than the Queen consort of England. I will proceed to some cases of impeachment in which neither public functionaries were concerned, nor crimes charged, which were indictable in the ordinary courts of judicature. Towards the end of the reign of Edward 3rd, Richard Lyons, filling the high public station of one of the merchants of the city of London, committed the indictable offence of removing the staple of wool and other merchandize. Another offence for which this Richard Lyons was impeached, was lending money to the king upon usurious contracts, and offering to pay the king's creditors for a small advance. This charge of compounding the king's debts upon a small per centage would in these days, I apprehend, be so far from being deemed an offence, that if the king's creditors could only be made accomplices by consenting to receive a small proportion of their debts, it would be regarded as a great benefit to the country. [Here the attorney-general called upon Mr. Brougham to go on with the list of charges against Richard Lyons.]—I have not the slightest objection to go on. The charge proceeds to state other extortions, deceits, and oppressions, committed by the said Richard Lyons, as farmer of the king's subsidies and customs. It appears therefore that this individual was charged with offences both of a public and private nature. But your lordships will observe, and I pray your lordships' attention to the fact, that there are four several matters alleged against him, each of these allegations being a substantive charge. Now it must be recollected, that our ancestors did not draw up articles of impeachment in the slovenly manner in which some of their descendants now draw bills of Pains and Penalties; therefore any one of the three impeachable offences first charged afford as strong an authority that impeachment lies for offences committed in a private capacity, and not indictable at common law, as if the offence which winds up the charge had been entirely left out.

I will not fatigue your lordships by detailing other cases, but content myself with referring to one in 1620, which is the more remarkable, because sir Edward

Coke was at that time in the House of Commons, and chairman of the committee appointed to search for precedents. In the 4 inst, folio 36 and 42, he alludes to the case of sir Giles Mompesson, who was impeached for no more flagrant or indictable an offence than that of procuring illegal patents. I should like to see the attorney general, with the aid of his special pleaders below the bar, set about drawing an indictment for procuring illegal patents. Since the Revolution there are instances of the same kind. I deny the narrow principle that the moment an offence is made liable to a pecuniary penalty, it comes within the pale of parliamentary impeachment. My learned friend applies to me as a lover of the constitution. In that character I require the privilege of impeachment upon higher grounds than because a penalty of five pounds is annexed to an offence. I require it wherever a wrong or injury is done for which there is no other constitutional remedy, and which is not cognizable at common law. This is the sound constitutional principle on which the law of impeachment rests since the very beginning of parliaments. In Glanville a case of impeachment is mentioned for smuggling French silks, and I mention this to show how long and wide-stretching is the arm of impeachment. So extensive is the power of the House of Commons that it can descend even to the minutest offences. Nothing is so elevated as to over-awe its control—nothing so minute as to elude its vigilance. It applies, in short, to all cases which are otherwise irremediable. I will pass over the impeachments arising out of the barrier treaty, and come at once to the case of Mr. Hastings. Some of the charges against him might perhaps have been brought against him at common law, but I will venture to say, that four out of five of the articles of impeachment were not cognizable in an ordinary court of judicature.

The attorney-general has asked whether if an act committed out of the realm would have been high treason if committed within it, it was fit that such an act should go unpunished? The attorney general has assumed that those acts would amount to high treason if committed within the realm. The opinion given by the judges, as it has gone abroad, has been much mis-stated. The question proposed to the judges, was, whether or not certain offences charged in the preamble of the bill to have been committed abroad with a person who owed no allegiance to this country amounted to high treason; but they were not asked, whether the same offences was punishable by impeachment. It is the more necessary to state this, because this question has never yet been decided by the judges, I am aware that we have the opinion of text writers upon the point, but had this question come before the judges, it would have been a case *prima impressionis*.

The next argument upon which reliance is placed is one which, I confess, does not a little astonish me, and to this part of my learned friend's speech I cannot help soliciting the attention of the House. That my learned friend should have brought forward any argument so hostile to himself, and so favourable to us, I could not possibly have anticipated. My learned friend treats this bill as a bill of divorce. He urged this argument over and over again—he pressed it, I cannot say *usque ad nauseam*, for the oftener he repeated it it was the more grateful to my ears—but my learned friend appeared never tired of repeating that this bill was a bill of divorce. If this be so, the matter is at an end,—the question is closed—and my learned friend and his bill, clauses, preamble, provisos and all, are fairly out of court. If it be a bill of divorce in which the sovereign claims the remedy, why are not all the analogies of an ordinary bill of divorce followed up? We have been tauntingly and jeeringly asked, where we could find a bill of divorce in which the word adultery was specified and charged *eo nomine*? Why, for this very obvious reason—because there is no necessity for it. There can be no common bill of divorce, unless the ecclesiastical courts have first pronounced a sentence of divorce upon a charge of adultery. Are we not entitled to turn round upon our learned friends, aided as they are by their learned coadjutor from Doctors'-commons, and to ask when the ecclesiastical courts ever pronounced a sentence of divorce, where the libel contained nothing but the words "adulterous intercourse." The libel must impute the foul crime of adultery. It is very possible that the words "adulterous intercourse" may also be used, because the learned persons who draw these proceedings, delight in prolixity for the sake of accuracy, of course, as the purses of those who employ them can testify. The "foul crime of adul-

tery," however, must be charged in the libel, and without such a libel, no common bill of divorce ever passed your lordships' House.

It is said, however, that his majesty does not complain; so that here is the anomalous case of a bill of divorce without a party applying for it. It is a bill of divorce to all purposes, save only that trifling particular, that there is no party professing to be injured! It is upon this particular, however, upon the complaint of some individual, that all your lordships jurisdiction in cases of divorce rests—without it you have no right to dissolve the sacred tie of marriage. There is not a single instance from the beginning of the world, not even excepting the reign of Henry 8th, in which parliament has proceeded to legislate away the marriage tie, without an application from the party complaining of injury. Though the king, however, does not complain, my learned friends seem to me to place this illustrious person in a very strange predicament, by their admission of the capacity in which his majesty here stands. The king does not complain, but he sends a sealed bag of charges; he desires parliament to consider them; and he pledges himself that if they shall be of opinion that a divorce is advisable, he will cheerfully abide by their recommendation. And this course is taken, because it would be inconsistent with the royal dignity to complain! To my mind, I confess that the royal dignity appears to have been little consulted in this proceeding; and, in point of fact, where is the difference between making a complaint and demand of redress, and sending down a message to parliament recommending them to institute proceedings, with an implied assurance that his majesty would be the first person to be satisfied with their decision, and to accept joyfully the proffered redress? This proceeding is so like a complaint, that it is difficult to apprehend the distinction; unless, indeed, his majesty is to be considered as a complainant in any other sense, that may suit his majesty's supposed purposes, or the arguments of my learned friends, and not in that sense which the bill requires, and which the purposes of justice require. In that case, indeed, his majesty may be supposed to come here as a complainant not liable to those rules which affect such complaints, and which in ordinary cases would afford us those facilities for defence, which it is pretended are not competent to us, because this is not a private, but a public proceeding.

My learned friend who spoke last made some observations upon the conduct of the persons who wished her majesty to remain abroad—of those who facilitated a foreign residence, and of those who were desirous of prolonging it. My learned friend, however, misunderstood the manner in which those charges had been made. We did not launch a vague, random charge against them for having treated with her majesty; but as necessity alone could justify this proceeding, we thought there were no better means of ascertaining that necessity than by sifting the conduct of those persons who proposed the measure, and who alone knew the facts. We thought it our duty to show your lordships that their conduct was such, that no man of the common measure of honesty, or of the ordinary degree of intellect, could doubt not only that there was no necessity for the measure, but that it was absolutely inexpedient. My learned friend, under that convenient figure of speech in which an orator says he will not do what at the moment he actually does, has enumerated all those disgraceful, degrading, offensive particulars, to use his own words, that adulterous intercourse, which is alleged to have subsisted between her majesty and a foreigner, disgraceful alike to the character of the nation, and degrading to the dignity of the royal family. If information were received in this country of conduct so disgraceful and degrading, and so especially injurious to the character of the nation in the eyes of foreigners, is it not a logical inference that it would have been followed up by an order requiring her return to England, that if guilty she might no longer retain her illustrious rank and privileges? Was any proceeding of this nature resorted to? No such thing—reward was held out instead of punishment, and instead of an order to return to this country, it was a prohibition to return. Instead of attempting to retrieve the sullied honour of the country, every facility was afforded her of adding to the national dishonour. The real opinion of the framers and supporters of this bill must be collected from their actions. So far from thinking such a bill essential to the morality of the country, or that the conduct of my illustrious client was deserving of reprobation, they went down upon their knees to her majesty with the same homage that they had paid

to their sovereign, her consort; they were ready to consent that her majesty should have a large income, and that she should be acknowledged at foreign courts as Queen of Great Britain, without any hint that she had committed offences degrading to the character of the country, still less that any measure had become necessary to degrade her majesty from her high rank and station. Whatever may be thought by different individuals of these offers made to her majesty, they stand the avowed and recorded opinion of the framers and supporters of this bill, that they did not think the conduct of my illustrious client at all injurious to the morals of the country.

But (continued Mr. Brougham) it appeared to be thought that he and his colleagues had been guilty of great injustice to the claims of a certain respectable class of the community, whom he should describe as witnesses. This was a charge he could not admit. For his own part, he could not think himself justified in whispering a single syllable to the disadvantage of this worthy order of persons. When he thought of them, his idea of them was too high to allow him to look upon them with any other eyes than those of respect! His impression was, that they must be persons of exalted station, above the ordinary ranks of life, or at least looking in their exterior like those persons with whom their lordships were accustomed to associate. This respectable external appearance they had, he doubted not, *proprio marte*. They must be seized in fee-simple of those decent habiliments in which it would be fitting for them to appear before their lordships; and those, too, purchased out of their own ample revenues. He supposed they must be persons who could regale themselves at their own expense—who could live in separate apartments, and could fare sumptuously every day. They could not, he was sure, be persons who were called together by the ringing of a bell, or the beating of a drum, to a common meal provided at the expense of others. At least he was sure they must have full liberty of locomotion, and might be expected to be met by their lordships in the corners of the streets; and that when they went abroad, no other individuals would be seen attending them, or watching their motions, but *lacqueys de place*. Wherever they were seen he was sure they would be respected: they must be known to Europe, and if less known in this country, it was our misfortune not theirs. He might safely anticipate that they would appear before their lordships decently attired, at their own charge, and deliver their testimony—he could not say in proper English,—but in their own native language, with dignity and propriety. Such was the description of testimony he had to expect in support of the preamble and clauses of the bill. To meet a cloud of such witnesses was enough to appal any man. But, besides these, there would be, he was equally confident, a number of home-bred witnesses, of equal respectability. They must be officers of distinction in the army or navy, or ladies and gentlemen who had enjoyed the society or been about the person of his illustrious client. These persons, being well known in this country, would be regarded as even more worthy of credit by their lordships than the former. In this situation, what would become of him and his learned colleague, if their lordships should see no weight in their arguments against the principle of the bill, and should determine to receive this overwhelming evidence?

Having taken the liberty of making this digression, he must now notice a charge which had been made against him by his learned friend on the other side. He had been accused of a wish to inflict pain on an illustrious individual wantonly and unnecessarily, and of choosing a time for that purpose, that was calculated rather to close every mouth on the subject. Their lordships, he was certain, would do him the justice to recollect that he did not allude to this subject unnecessarily. He had touched on it in replying to the arguments urged in support of the necessity of the bill. His answer was, that if such a measure was necessary for the sake of morals, on account of the supposed conduct of his client, it could not have been unnecessary to take some steps in the case of another illustrious person. He had not gone out of his way to state this: it arose in the course of his argument. He had heard it stated that it was ludicrous to compare the case of a prince and a princess. He had not, as it seemed to be supposed, considered the cases as similar; but he thought it very extraordinary that any man should regard the one case as inflicting a stain on the moral character of the country, and the other as having no tendency that way. He had to appeal from the new to the old law of morality,

and was not raking up past transactions for the purpose of exciting odium or inflicting pain, as had been alleged. What he meant to contend was, that there was no consistency in saying that the present case, if made out, was one which ought to be visited with severity, while others were entirely overlooked. Here there had been no public ground for the proceeding. There had been no public inquiry till their lordships acted on the recommendation of ministers, and the whole proceedings had for their foundation nothing but rumour. He should deeply feel the pain of being led into any thing like recrimination; but, with every regret at being compelled to take that course, his feelings would at least be alleviated by the consideration that he acted in the discharge of his professional duty. Relying with confidence on the justice of their lordships' decision, he felt that it was unnecessary for him to take up any more of their time.

Lord *King* said it was his intention to propose a resolution to their lordships to this effect, viz., "that it is not necessary either for the public safety, or the security of the government, that the bill intituled, "An Act to deprive Her Majesty of the Title, Prerogatives, Rights, &c. of Queen Consort, should pass into a law."

Earl *Grey* said, that the impression made upon his mind by the arguments used by the learned counsel was very strong against proceeding with the bill. He therefore wished that time should be given to their lordships to consider what ought to be done upon this proposition, and hoped his noble friend would postpone his motion till to-morrow, when their lordships would all come better prepared for the discussion. If he were now forced to come to a decision, he so strongly felt the inconvenience of the course in which they were engaged, that he should certainly be disposed to adopt some other mode than a bill of Pains and Penalties.

Lord King intimated his willingness to postpone his motion till to-morrow. The Earl of Liverpool was willing to consent to the delay proposed, but thought that the debate ought now to be commenced, by, at least, placing the proposition before their lordships: they might then adjourn the debate until to-morrow. Lord King, in compliance with this recommendation, moved his resolution; after which the debate upon it was adjourned until to-morrow.

HOUSE OF LORDS.

Saturday, August 19.

In pursuance of the notice he had given yesterday,

Lord *King* rose. He said, that the counsel on both sides having yesterday closed their arguments, this, it appeared to him, was the only opportunity that remained for a member of their lordships' House to endeavour by some means or other to avert those evils and difficulties, which he, in common with many of their lordships, and with the great body of the public, felt most strongly to be intimately connected with the course they were pursuing—evils and difficulties, the peculiar nature of which it was not necessary for him to state. Nothing which he had heard in the course of the argument submitted to their lordships by the learned counsel who appeared in support of this measure, had tended in the smallest degree to shake the full conviction which he previously entertained, that bills of pains and penalties ought only to be resorted to on great public occasions, when the safety of the state was involved, when the stability of the government was endangered, and when, from their adoption, some extraordinary benefit was likely to be derived. He would ask, as had been most properly asked by a noble lord (Carnarvon) on the preceding day, whether any individual, either in that House or out of it, entertained a serious apprehension that mischief would ensue if this bill were not proceeded with? Not one of their lordships had said that he entertained any degree of fear on that head; and no person whatsoever would, he believed, be found, to declare that he entertained a rational fear of danger if the progress of the measure were stopped. The dread of danger to the royal succession was the only circumstance that could justify this bill; and the circumstances of the case must preclude any such apprehension.

If, then, there was no reason for introducing such a measure on that account—if no great state necessity could be shown for bringing it forward—they were at once reduced to the question of the expediency, the policy, the wisdom of the proceeding. The bill asserted, in the preamble, that great impropriety and indecency of conduct had been manifested by the Queen, and that great scandal was thereby brought on the royal family and

on the country. It was highly important, he was aware, that the purity of all the members of the royal family should be preserved unsullied; and that object was stated in the preamble of the bill, in order to justify it. This alleged scandal referred to her majesty's conduct while abroad; and he called on their lordships, before they proceeded further, to see how the case really stood. They all knew that, if her majesty had remained abroad, no proceeding of this kind would have taken place. Then, he demanded, how was this bill necessary to vindicate the honour of the nation and of the royal family, when, if her majesty had pleased, the government would have permitted her to remain abroad, and to have pursued those courses which were so much condemned? No stipulation was made for the individual who was mentioned in the bill to quit her service—no condition of that sort was resorted to. How, then, would the honour of this nation have been vindicated, if the original proposition had been agreed to, and her majesty had been allowed by the government to continue in that situation, and amidst those scenes, where it was said, the crime imputed to her was committed? That was a most extraordinary way indeed to vindicate the insulted honour of the country! This reference to the honour of the nation appeared to him to be a mere pretence. It was completely false to say the bill was necessary to vindicate the honour of the country, when ministers would themselves have allowed those licentious scenes to be continued, in the country where they were said to have been carried on, without molestation; but the moment her majesty arrived in England, where they could not be continued, then this bill was brought in. If there were any doubt as to the real object of this bill, the terms offered to her majesty cleared away that difficulty. As long as an opportunity occurred for the continuance of the crime, ministers would allow it to continue; they would grant the means of its perpetuation—they offered impunity to those who committed it, while the offence could be committed; but the moment it ceased, the moment it became impossible to perpetrate it, then they thought of investigation and punishment. They knew that, when her majesty came to England it was impossible that the offence could be continued. They were aware that the person with whom the crime was said to have been committed was a foreigner, and, under the Alien act, might be refused the privilege of remaining in England.

From all these circumstances he drew this conclusion, which appeared to be a correct one—that government would have suffered the crime to be continued with impunity, while it was possible to carry it into practice; but the moment it ceased, then they deemed it necessary to resort to punishment. It was said, that her majesty's conduct was marked by gross indecency, which tended to scandalize the country, and that therefore she was not worthy of the situation of queen of these realms. He wished to know whether it was necessary to proceed in this manner on account of any moral feeling that had been outraged. He should be glad to know whether it would be proper to pass this bill on account of those alleged indecencies of conduct? They ought to pause and inquire whether such conduct demanded, or could justify, a bill of this nature. It might be said that the necessity arose from the moral feeling of the country being wounded. He asked of their lordships to open their eyes and look around the country, and then to say whether this moral feeling was not more likely to be wounded by proceeding with this measure? It was that which would give the great shock to the moral sense and feeling of the country. Nothing could have a more injurious effect on the public morals than their persevering in pressing forward this bill, and giving to the world a statement of all those disgusting scenes from which it was said to have arisen. One of the prominent parts of this bill was that which set forth that an offensive freedom and familiarity had taken place between her majesty and a foreigner—a menial servant. This was an extraordinary accusation. He did not imagine that familiarity with a domestic would have been charged against her majesty as a crime. He recollected that Mr. Burke, in his speech on "Economical Reform", asserted, "that kings are naturally lovers of low company." This he laid down as a rule. And he further stated, that this was the reason why the most dignified and honourable persons in that House ought to be placed about the court, not, he observed, because those individuals would become better by being placed there, but that the court would be improved by their presence. Had the Queen, he demanded, the advantage of having persons of high

rank and character placed about her? Was her improvement studied by placing individuals of exalted dignity and virtue about her person? No; she had not been placed in such a situation. She was deprived of those advantages—she was thrown amongst persons of a low rank—she was left to choose her companions as she could, and, therefore, she was liable to be approached by those vices and temptations, which were prevalent in such a state of society. But, at all events, he would maintain, that indecencies and irregularities of conduct afforded no reason for passing an *ex post facto* law—first creating the crime, and then inflicting the punishment.

The learned counsel who was heard yesterday at the bar in support of the bill argued, that when great crimes were found to exist, without any known punishment being attached by law to their perpetration, then their lordships were bound to proceed by bills of pains and penalties, and he threw all manner of difficulties in the way of any other proceeding. He seemed to think that impeachment was a most objectionable course. That would have been very good advice for him to give to his employers: he might, with much propriety, have stated to them what measure he considered good, and what objectionable; but it was not quite so well for him to come down and tell this to their lordships, who were to be both jurors and judges. Such a proceeding took away all the security which an accused person would derive from the forms of justice. A bill of pains and penalties dispensed with all those forms which were found so useful in other cases; and it was not sufficient, when those forms were taken away, to tell him that the substance of justice was preserved. On this occasion, he believed, it was always pretended that the substance of justice would be secured while its forms were set aside. This, however, was by no means a true statement of the case. Why had not lord Strafford been proceeded against by impeachment? Because it was found that if such a course were adopted no punishment could reach him. Therefore a bill of pains and penalties was introduced, which, he would maintain, was the foulest blot in the history of those times. He believed that the self-same motive which induced the parliament of that day to proceed by a bill of pains and penalties, now operated on the confidential advisers of the Crown to proceed against the Queen in the same manner. They were asked, allowing the latitude which fairly belonged to the parliament, how they could proceed by impeachment, when the only punishment in that case, if guilt were proved, must be the punishment of death? but those who argued thus had strangely omitted the punishment of incapacity, which frequently followed impeachment; and they had also put out of sight disgrace and degradation, which must be considered a very severe punishment. When the learned counsel stated, that impeachment went to the infliction of imprisonment or death, he would say that degradation and incapacity were as completely within its scope, and formed a punishment which would naturally follow from conviction. He could wish, when their lordships were discussing the expediency and propriety of a bill of pains and penalties, that, sitting there as lords of parliament, they would look anxiously to the situation in which they might chance to be placed. In this instance, he conceived, their practice very much exceeded that of the House of Commons, in paying attention to the true principles of justice, with respect to evidence which their lordships had an opportunity of examining on oath. This was a peculiar distinction of their lordships' House. When they had a bill of pains and penalties before them, they called witnesses to their bar, whose testimony was given under the sanction of an oath; and thus it was the pride and glory of that House to pay a strict attention to the principles of justice on that point. Now, suppose they sent down a bill of pains and penalties to the House of Commons, after grave and mature deliberation, let their lordships consider the mortifying predicament in which they would be placed, if the other House rejected it; for, after all the anxious attention their lordships might have paid to the evidence, the other House might be led not to attend so much to that evidence as to the instructions of their constituents. In the other House the measure might be bandied and tossed about, and ultimately they might come to a different decision.

The learned counsel had observed, that their lordships would do their duty, at whatsoever risk it might be performed. He had no doubt that every noble lord would wish to do his duty in carrying the existing laws into execution, be the risk what it might: but did they not perceive

the wide distinction there was between carrying the laws of the land into execution, and that which might be incurred by making an entirely new law, on the spur of the occasion? When they were told that it was necessary to have recourse to a bill of pains and penalties, because no other mode, applicable to the case, was known, he would answer, that the matter should be considered with a view to the public benefit and the public safety only. Had any individual then, argued, that, under the present circumstances, they ought to incur every possible risk, in order to form a new law—an *ex post facto* law? No, as he had said before, quite a contrary feeling prevailed. It appeared to him to be a little short of insanity to carry a new species of law into execution, when the formation of that law had nothing to do with the public safety—when it was not called for by any apprehension of public danger. He was convinced that the public good and the public utility would be much better consulted by putting a stop to the proceeding at once, rather than blindly going on with it; and he did confidently ask of every man, who thought with him that there was more danger and disadvantage in proceeding—who believed that the public interest was more likely to suffer by going on with the bill than by stopping its progress—to vote with him on this occasion. There was no discredit in retracing their steps when they perceived they were in error; he saw no point of honour so false as that which impelled men, when they had once taken a particular path, to proceed in it, however improper it might be. He knew of no folly so great as persevering in a course which was plainly detrimental to the public interest. With these feelings he begged leave to move, "That it is not necessary for the public safety, or the security of the government, that the bill intituled 'An act to deprive Her Majesty,' &c. should pass into a law."

The Earl of *Liverpool* said, he rose at that early hour, as he was anxious to state the reasons which induced him to differ entirely from the noble lord, and why he should propose, as an amendment, that the counsel be directed to be called in. In stating the arguments which he had to offer on this subject he would endeavour to abstain from any observation of an inflammatory nature, for he was extremely desirous to treat this question in every stage of it, even in the present, as a purely judicial question. He would now, as briefly and as clearly as he was able, lay down the grounds on which he differed from the noble lord, and show to the House that, under the circumstances in which they were placed, it was their lordships' duty to proceed with the bill. The motion of the noble lord might naturally be considered on two grounds, quite distinct in themselves:—first, whether there was any necessity or public utility in pursuing any measure against her majesty; and, secondly, if public utility required it, whether the present was the most proper course. These were the two considerations to which their minds would be directed in the present stage of the business, and he thought it the most proper and convenient to begin with the last. He would inquire, assuming that they were called on to proceed with some measure, whether this was the most expedient one, or whether it was of such a nature that it should be got rid of altogether. He was ready to admit the principle relative to bills of pains and penalties, as he understood it to have been laid down by the noble lord. The noble lord would, he conceived, agree with him, that extraordinary occasions might exist where bills of pains and penalties were absolutely necessary. Though the cases to which he alluded were of an extraordinary nature, still bills of pains and penalties, by which alone they could be met, must be looked upon as a part of the constitution of the country. Perhaps he might say, that such measures were exceptions to the general principles of the constitution; but, being rendered necessary by circumstances, they were recognised by it. He was quite willing to allow, that, when a bill of this kind was brought forward, it was necessary, for those who proposed it to show some special grounds on which it stood, and to prove that any other course was liable to strong objections.

Now, assuming the alleged crime to have been committed, he would inquire, what other course their lordships or the government could have adopted, save that which was now under consideration? From the opinion which had been delivered by the learned judges, it was quite clear that her majesty could not be indicted for high treason. He had no difficulty in saying (and there were those about him who knew his sentiments on the subject), that if indictment for high treason had been open to the government, that was the

course, and the only course, that he would have recommended for adoption; and it was only in consequence of the opinions, most numerous and most respectable—opinions, which had been stated over and over again—that he was induced to pursue the course on the propriety of which they were now to decide. But the question as to indictment for high treason had been completely set at rest. Whatever doubt had before existed, had been put an end to by the opinion of the judges. What other course, save that which they were now considering, could be resorted to after that solemn decision? There was but one other, that of impeachment; and he wished to call their lordships' attention to the view which he took of that course. He thought that, if impeachment, taking all the bearings of the case into consideration, was not impracticable, that it was yet liable to so many serious objections as rendered it a very inexpedient mode of proceeding. In his mind, all the objections which could be urged against a special law might with equal justice be applied to impeachment. The argument of the learned counsel, who had been heard against the bill, came to this—that every offence might be made the subject of impeachment. If that statement were good, *de jure*, as well as practically—if a proceeding by impeachment were open in every case where a public grievance existed, why was an exception made in favour of bills of pains and penalties, and bills of attainder? The reason of such an exception was obvious. It was simply this—because cases did occasionally arise, to which impeachment would not apply. That was the ground on which bills of pains and penalties, and of attainder, must either stand or fall. Then, assuming this crime to have been committed, it was evidently not high treason under the statute of Edward 3rd; and, in the next place, it was not a crime by the common law of this country, generally speaking. This he conceived to be a great defect in our laws. He saw a noble lord, who, he believed, when a member of the House of Commons, had given notice of a motion to amend the law of England on this point; and a noble friend had entertained the same intention, although he had not carried it into effect. It was a most extraordinary thing in the law of England, that that which was one of the greatest offences against the law of God, and one of the greatest crimes against the well-being of society, was looked upon as a great civil injury, but was not cognizable by the criminal law of the land.

This was the state of the law at present. But it would be said that the offence in question was a sort of moral abuse, which, like all others *contra bonos mores*, might be made the subject of impeachment; and it was farther argued, that if cases of this nature could not be visited by the way of impeachment, it would go to narrow the rights and privileges of the two Houses of Parliament. No man was more inclined than he was to protect them in the exercise of their rights to the fullest possible extent, but he knew not how they could make that a subject of impeachment, which, by the law of England, was not a crime. He had heard it said, suppose any minister or public functionary whatsoever, at home or abroad, abused his trust, would not that be matter of impeachment? Most unquestionably it would; but would not such a functionary have been guilty of a crime? If any minister at home, or ambassador abroad, acted contrary to his duty, it was, by the law of England, a crime not only subject to impeachment, but to indictment. There were many cases in which indictment would not be the proper course of proceeding, on account of the difficulty of knowing how to lay it; and in those cases impeachment was the only mode that could be successfully pursued. Therefore it was, that, in general, impeachment was the proper course by which political offences were punished. Those cases, however, differed entirely from the present, because the offence committed was clearly cognizable by the law. But in what situation would the high court of parliament be placed if the Commons came before them with an impeachment; and the question, whether, if adultery in this instance did not amount to high treason, could it be considered a crime by the common law, were answered by those learned individuals in the negative? In such a case, even though they thought the proof was sufficient to warrant a verdict of guilty, they would be obliged to forego any further proceedings. Even allowing the argument on the other side to be good, they could not make a proceeding by impeachment applicable to the present case. They might draw a distinction, and say. It is true, adultery in any ordinary woman is not criminal by the law of England; but the Queen is to be considered in a different light—she is a

public character, and has public duties to perform; therefore it may be a crime in her, though it would not be a crime in another woman. On this subject he should refer to the statute of Edward 3rd, and to the policy which governed the enactments of this country. Those enactments had declared, that adultery was an offence in the Queen, and certain other individuals; but in doing this they had made it a specific crime; they had made it high treason, and subjected the offender to all the penalties as well as advantages of the law of high treason. It was clear, then, that the legislature had decided this question. It was not a *questio omissa*; it was not that the case of the Queen had not been contemplated. The case of the Queen was distinctly pointed out, and a legislative authority was given for a particular mode of proceeding. Adultery on the part of the Queen was, under particular circumstances, made high treason; but in the absence of those circumstances, by the law of the land it was no crime at all. It was, however, said, that the privileges and prerogatives of the Queen placed her in a situation different from that of other females; but it should be observed, that the whole of the acts alleged in the preamble of the bill were done when her majesty was not Queen—when she was invested with no public character, and had no public duties to perform. The acts which were brought within the scope of this bill were done when she was princess of Wales, and not Queen; and therefore a new law was the more necessary. Supposing the Queen was impeached; supposing the case was made out, and that she was found guilty; how then were their lordships to deal with her? They could not go beyond the limits which belonged to the House in cases of impeachment. They might fine, imprison, banish, or degrade; but still he would state it as a matter of great doubt whether they could deprive her majesty of all her rights and privileges as Queen without a special act of parliament. They might banish or imprison her; but, looking to all the precedents, he did not think they could deprive her of her rights as Queen-consort.

If this argument were true, they would finally be brought back to all the objections that had been urged against bills of pains and penalties, and *ex post facto* laws; since they would be obliged to form a new measure, even in that case, which would be exposed to all the objections alleged against such bills and such laws. The advantages of the present proceeding were evidently greater than any that could be derived from impeachment. See how the case stood. Information had been sent down by his majesty regarding the conduct of his Queen; it was referred to a secret committee, and that committee had reported in favour of a legislative proceeding. He admitted that this report was not binding, but it formed an ingredient in the case; but he had subsequently introduced the bill; it was read a first time, an order was made for the second reading, and counsel had been ordered to attend. How happened it, then, that this idea had never occurred before? Many and great objections were taken; the appointment of the secret committee was resisted; and it was contended, that, whether the proceeding were by bill or by impeachment, it ought to be only on the responsibility of ministers. The bill having been read a first time, and the second stage fixed for the 17th of August, surely the House would require that it should be shown to be absolutely wrong, and some other course absolutely right, before it abandoned the course already adopted. Impeachment could commence only in the House of Commons; and if, six weeks ago, it had been found that that branch of the legislature was considering the propriety of impeaching, some reason might then have existed for the suggestion now made. At present, however, the House of Commons had shown a sort of acquiescence in this mode of proceeding; for, finding, on searching the Journals, that a bill was before the House of Lords, they had adjourned for a certain period. Yet now the House was advised to step out of its course, for a new mode of proceeding, which it could not originate, and which the House of Commons had shown that it did not intend to commence. He maintained, therefore, that there were the greatest objections to impeachment: even if it were a balanced case, after all that had been done here and in the other House of Parliament, it was his conscientious opinion, that this House had but one line of conduct to pursue—to go on with the inquiry commenced with so much solemnity, and to bring the facts of the preamble to the test of proof. If not, the House could do nothing, but at once declare, that the investigation should be dropped altogether; for that must be the practical issue of the question. It might

be fit and proper to put a complete end to the proceeding, but he was quite certain that it ought not to be altered: he believed it was originally right, and he was sure that it was not so wrong as to make a change desirable.

He now came, then, to what in order of time ought, perhaps, first to have been considered—the expediency of supending this proceeding altogether. He had some time since stated the views of the king's government on this point: he had said that it was his opinion and theirs, that whatever difficulties attended the subject, as long as her majesty continued to reside abroad—not that there was no inconvenience in avoiding all proceedings, but that—comparing the advantages with the disadvantages, the inconvenience of taking any steps against her majesty far more than counterbalanced any good that could arise from them. The noble earl (Grey) certainly then seemed to entertain a different opinion: he had said, that assuming the matter of the report to be true, whether at home or abroad, it was the duty of the executive government to have brought the conduct of the Queen directly under the view of parliament. Such he had understood to be the opinion expressed by the noble earl.

Earl *Grey* rose to set the noble earl right. He had certainly said, that if the noble lords opposite were in possession of proofs against her majesty such as they declared that they had, and that no considerations of public expediency operated in a contrary direction, they ought, whether the Queen were at home or abroad, to have made up their minds to proceed. He had mentioned both propositions—the decisive nature of the evidence, and the question of public expediency—which might militate against its production. Ministers ought to have acted promptly in the first instance, either by bringing forward the charges, or by dropping them altogether.

The Earl of *Liverpool* had not so understood the opinion to be qualified; but in its present shape it much more met with his concurrence. Taking it for granted that what the noble earl now stated was correct, the noble earl would not dispute that he had followed it up by saying, that the accusation having been made, he did not see how it was possible to do otherwise than bring it to the test of proof. The noble earl asked, where was the difference between her majesty's being abroad and at home? He (lord Liverpool) thought that there was all the difference in the world. While abroad she was not held forth to the people of the country as their Queen: she would not receive their homage, or enjoy all the privileges of royalty; while abroad matters might be overlooked, but when the Queen set foot in this country, there was no alternative; or rather there was but one alternative—to give her all respect, homage, and reverence as Queen, or to bring forward the accusation. He knew that in the other House of Parliament, and in a degree in this, and in the country at large, a strong desire was felt and expressed to avert the investigation: ministers had lent themselves to this desire, but always upon the principle, that if the inquiry were dropped her majesty's residence abroad was a *sine qua non* of all negotiation. Even if it were a common case of adultery, but much more if it were a case of the grossest kind, where the party accused had committed the offence in the face of the whole world, and appeared proud and anxious to manifest it in all parts of her conduct—he put it to every man of sense and feeling whether ministers could consent that a person so circumstanced should fill the high station of Queen, and enjoy all the rights and privileges belonging to her rank. He did not mean to say that suffering her to remain abroad, so circumstanced, was not a great evil, but it was an evil that might be submitted to; but if she had lived at home, having set at defiance all regard for morality, and the common decencies of life, it was an evil that, for the sake of the community at large, could not be endured.—Something had been said by the counsel at the bar on the subject of adultery committed by a man and by a woman. Undoubtedly in the eyes of God the crime was in both cases the same, but their effects upon society and upon public decency were widely different; and this had not only been the opinion of mankind at all times, but their lordships, in their legislative capacity, always acted upon it. Divorce bills were constantly passed on the petition of a man, but never, excepting under especial circumstances, on the application of a woman. Yet adultery in men was by far the most frequent: for one case of the commission of the crime in a woman, he believed nine instances existed of its commission by a man; and why was not the same remedy

applied? Merely because all were aware that there was no comparison as to the ill effects upon society in the one case and in the other. If there were one thing which more than another distinguished modern from ancient times, it was the different degree of reverence and respect paid to females; and this was mainly produced by the superior purity and virtue of the sex: those, therefore, who had established the doctrine regarding marriage and divorce now universally prevailing, instead of being the enemies of females, were, in truth, their best friends, patrons, and protectors, and most contributed to support that chastity which added so much to the attraction of personal charms.

If, then, the case against the Queen could be proved to be such as he had stated it, notwithstanding all clamour, which he did not despise—notwithstanding all difficulties, which he did not underrate—it was the duty of the House to go straight-forward to the conclusion of the course it had begun. He asserted, and he felt it strongly, that nothing that had passed, that no attempts to intimidate individual members, no attempts to overawe the whole legislature, no attempts to crush this great and momentous proceeding, ought to prevent the House from performing what it owed to the virtuous, the respectable, and the peaceable portion of the community. Those attempts, he knew, must have their indirect influence on the minds of men; but it was an influence they ought to expel, and to be governed only by a fearless sense of high and indispensable duty. Let him put the case in another point of view. The question was not now whether the ministers of the Crown, knowing all the facts, ought to bring them forward—not whether the accusation should be made: it had been made; it stood indelibly upon the preamble of the bill: nothing could blot it out—nothing prevent it from descending to posterity. Was it fitting, then, for her majesty's sake, that such a preamble should remain on the proceedings of parliament, without bringing it to the severe test of proof? Supposing the charge were at this moment dropped, he put it to their lordships, as men of feeling and honour, whether they could hereafter pay the Queen their homage and respect, with this uncontradicted preamble staring them in the face? Nothing could satisfy the House—nothing could satisfy the public mind—nothing ought to satisfy the Queen but the production of the evidence, and the completion of the whole inquiry in an honest, straight-forward, course.

One topic more, and he had done. Of course the counsel at the bar were bound to discharge what they thought their duty to their client, and to smother all subordinate considerations; and if, in the course of the speeches they had delivered, he had felt pain—not to say disgust—at some of the matter they had urged, he believed it was in common with the great majority of the House. They had adverted to the conduct of an illustrious personage (the duke of York) and they seemed to have thought that allusion necessary for the interests of their client; but if he (lord Liverpool) had been asked whether it was for the interest of their client to drag forward that long-forgotten and unfortunate subject, he should have answered that the interest of their client was directly the reverse. (much cheering). He should say no more than this—they acted on their own discretion, they had an arduous task to execute, and what fell from them should be heard with every possible indulgence. They had also asserted, that the whole object of this bill was, that the illustrious personage filling the throne might be able to get rid of his wife, and marry again. He declared most solemnly before their lordships, that he believed that no such feeling had entered into the mind of his majesty. For himself, and for those who acted with him, he could assure the House, that that provision was a part of the bill to which the least value was attached. Undoubtedly it followed as a corollary to the rest of the measure—it was a fair and ordinary conclusion; but it was the least important part of it, and was very far from being its chief object and intention. The part to which he did attach importance was that which enacted that if a case were proved against the Queen she should no longer enjoy the rights and privileges of her station. He wished her not to be visited harshly—he wished the measure of punishment even to be as light as possible, and there were a thousand considerations which rendered it desirable that the facts should never be disclosed; but if what was charged against her was true, he never could reconcile to his mind that she should be his Queen. Having stated thus much with earnestness, but he hoped with temper and moderation, he should move, as an amendment, "That the counsel be called in."

Earl Grey began by complimenting the noble earl who had just sat down on his most fair and candid statement, and at the same time most powerful and eloquent appeal to the judgment and feelings of the House. He rose under all the impressions which a speech of such effect must naturally produce, and consequently with a disposition, before he entered upon topics where he was unfortunately obliged to differ, to take advantage of those on which he could express his concurrence. He should set out, therefore, with stating, that if this bill were to pass into a law, and were ultimately to be considered the fit mode of proceeding on this great and unfortunate question, he agreed with the noble earl in thinking that the clause relating to the divorce was by far the least important part of it; he was also ready to receive the assurance that it was not deemed a main object in the illustrious quarter to which reference had been made. He thought, likewise, that if in consequence of the clear proof of the charges, it were necessary to proceed to the degradation of the Queen, the clause of divorce would follow, not as a measure of release to the King, but as a measure which the public interest made necessary to preserve the character and dignity of the throne. He could not reconcile it with any principle of propriety or justice, that if the Queen were degraded for such crimes, she should be left the wife of the king of Great Britain. He no less agreed with the noble earl (and he was anxious to state his concurrence) in the regret he had expressed, at the mention of topics by the counsel at the bar, who doubtless had felt the most painful necessity of introducing them. The object, no doubt, was, that they might operate favourably for their client; but, giving them full credit for their motives (as from his knowledge of them he was bound to do), he could not help thinking that they had been governed by a mistaken discretion, and that they would not only have better consulted their own feelings, but the advantage of the case they advocated, if they had abstained. To the illustrious person the object of their remarks he must pay that tribute which even the counsel could not withhold, and which the noble earl had repeated—a tribute to the high and meritorious services he had performed for the public, and which established an undoubted claim to the affection and confidence of the people.

Having disposed of these matters, he would now address himself to the bill upon the table. On its original introduction, and the motives leading to it, he wished on the present occasion to say as little as possible: on a previous occasion he had stated, some might think with too much asperity, his opinion on the conduct of ministers. Debating now a question which assumed a judicial character, he was desirous of abstaining from every thing that could awaken angry or party feelings, that the great subject might be discussed with that temper and calmness which alone could lead to a conclusion satisfactory to the public. He would only, therefore, in justice to himself restate that, in his original objection to the conduct of ministers, he had taken both views of the question—not only the magnitude of the offence imputed, but the expediency of bringing it forward. It was the duty of ministers to have made up their minds, and to have acted firmly and definitively; and, without reviving topics already dismissed, he must say, that he could not yet see the distinction drawn by the noble earl between the residence of the Queen abroad or at home. If he looked back to the matters connected with this point, he must recur to that act of real degradation, not more unfortunate than unjust, which operated as an infliction of punishment without charge or investigation—the leaving of her majesty's name out of the Liturgy. Let it be recollected that that unhappy circumstance had led to the return of the Queen, and the impossibility of repairing that fatal error occasioned the failure of the negotiation. When she arrived, he had admitted that the noble earl was placed under the necessity of making his choice between a complete acknowledgment of the Queen, with all her rights and privileges, or the institution of a charge to justify him in refusing it. He could not concede to the noble earl the distinction he had taken, nor think that the interests of the people of England were consulted in the offer to enable her majesty to continue her licentious course upon a more splendid scale, and to make herself a degrading exhibition in the eyes of the whole continent of Europe. When the noble earl, therefore, talked of a choice of evils, surely that evil would have been as great as the insertion of her name in the Liturgy, the omission of which had reduced the House to its present extremity.

to maintain that adultery was no crime by those laws? If the noble earl had said so, his lordship and himself were completely at issue on the subject; for he must contend that it was such a crime. It was a crime at civil law, which constituted a part of the law of England, and it might be proceeded for in a spiritual court. Mr. Justice Blackstone defined it to be a public crime, that must be so proceeded for; because being a public crime, there was therefore no action for damages. Not only in the preamble of this bill was adultery charged, which, as he had observed, was a crime by the laws of England—(and he would ask the noble lord on the woolsack whether he agreed with the noble earl in thinking otherwise?) not only was adultery directly charged, but it went on to allege against her majesty's scandalous and licentious conduct. Now he would ask his noble friend behind him (lord Erskine), he would ask the noble lord on the woolsack, and other lords, and he would put the same question to the learned judges, whether gross, infamous, and scandalous conduct, was not a crime also by the English laws, and subject to the penalty of fine and imprisonment? He said, then, that adultery was a crime of this description—that, in the first place, it was known to our laws, and punishable by a proceeding in the spiritual courts, independent of a suit for separation *a mensa et thoro*: and, in the second place, he maintained, that conduct highly immoral and grossly licentious was a crime also known to those laws, and which might be punished by fine and imprisonment. He assumed, therefore, that they were crimes of which the laws of this kingdom were cognizant. But then the noble earl took this distinction—"they were not (in this instance) committed in it." Why this was the very case, then, that should bring them within the jurisdiction of parliament. Would he (earl of Liverpool), who maintained that this was not a proper case for any proceeding which might be appealed to parliament, contend, that if a public functionary for instance, or other person, had committed some crime abroad, the commission of which incurred this consequence, that it produced great scandal and dishonour to his majesty's throne and kingdom—(and because the crime had been committed abroad, it not being possible to prosecute such public functionary at home by any ordinary course of law)—would he contend that his crime would not come within the scope of parliamentary impeachment, and be that upon which their lordships would be called on to decide? Why this, he thought, was a case which could not admit of any doubt or hesitation, and impeachments of this sort had occurred. Their lordships would remember that that of Mr. Warren Hastings for the Mahratta war went upon the same principle; he was proceeded against as a public functionary. The rule universally was, that if a public functionary committed a crime, which, however, was not against the common laws, although against the public interests, parliament was charged with the protection of those public interests; parliament was vested with the power to protect them; and, when they were called into question, parliament had a right to protect them. Lord Coke had been yesterday quoted for the purpose of showing the extent of the powers of parliament; and it was affirmed by Blackstone in his Commentaries, that its great power was expressly given to it, in order to carry into effect the due punishment of offences which ordinary magistrates dared not, or could not, punish. He (earl Grey) said, that this was an offence which ordinary magistrates dared not, and could not, punish: but being an offence and a crime deeply injurious in its consequences to the public interests, it was within the power of parliament, and just within those cases in which its power of impeachment could be properly exerted, and for which it was expressly given by the constitution of the country.

He contended that this was a case in which an impeachment would lie: but the noble earl took another distinction. He admitted that the Queen, invested with the rights and privileges of her exalted station, was to be considered as a public functionary, and that an offence committed by her was, in that point of view, cognizable by impeachment; but, said the noble earl, "this offence was committed before she was Queen." To this, his first answer he had already given—that this being a crime known to the laws, it was of no public consequence whether she were to be considered in the light of a public functionary or not; she might be proceeded against by impeachment: and as to its having been committed when she was only Princess of Wales, the power of

impeachment should in this case be exercised upon the principles he had already stated. When the noble earl said, that this could not be done because the offence occurred before she was Queen; that was rather an unfair observation, because at one time this offence was adverted to by the noble earl, in connexion with the high station which her majesty occupied as Queen of England, and upon another he agreed on it because it had been committed when she was not Queen.

He came now to consider what would be the consequence of their lordships adopting the measure of an impeachment. The noble earl had observed, that even were they to proceed by impeachment, there were no means of punishment applicable to the case; it would afford none that their lordships would consider to be applicable; and he had proceeded to infer from the case of lord Strangford, which he had quoted, that "degradation" was not within the power of the House of Lords, as a judicial assembly.

The Earl of *Liverpool* explained. He doubted whether a sentence of the House would have that effect, except it were followed by some special act of parliament.

Earl *Grey*, in continuation, said, that the noble earl had enumerated a variety of cases in which degradation had been decreed by that House; and that their abridgment was almost enough for the case of his (earl Grey's) argument. His lordship had referred to the case of lord Strangford expressly to show, as he understood it, that upon an occasion when the House of Lords wished to inflict degradation, the House of Lords in Ireland found it necessary to resort to a bill of pains and penalties, and not to an impeachment. But he thought he could show the noble earl, that they had other reasons for that course, and did not think that a sentence of degradation could only be effected by a bill of pains and penalties. In that particular case, their lordships would recollect that the offence charged was committed by him in the House of Lords, in his capacity of a peer of parliament. Now he did not know, in such an instance, how evidence could well be given before the House of Commons: such offence having been committed by him as a peer of parliament, and in the exercise of his parliamentary duties, it was fair to suppose that an argument might arise in the House of Commons upon the inquiry, the result of which might not be a bill of Pains and Penalties. As to what the noble earl had inferred from lord Strangford's case, surely he must recollect that the great lord Bacon, under a sentence of that House, after his impeachment, was incapacitated from sitting or voting there, or coming within its verge. His crime was the same as that charged upon lord Strangford: and the noble earl must also remember, that Cranfield, earl of Middlesex, was subjected to the same sort of degradation. On these grounds he maintained that the object of the bill before them might be attained under a judicial sentence of their House, and in a far better way.

The noble earl then went on to express his conviction that the course he recommended would be liable to infinitely less objection than that upon which their lordships were called on to engage, and be much more satisfactory to the public: it would be far better, after they had entered upon a solemn judicial inquiry, such as would ensue upon an impeachment—after they had heard the evidence produced, and examined witnesses on both sides according to the forms of that House—to bring in a bill founded upon such regular and solemn proceedings, than to go on with that which was now submitted to them. When he spoke of public satisfaction, he must again urge them to resist, and to be unmoved by popular clamour, but they must guard themselves against being deceived upon one important point; it might be productive of the hightest evil to the country, if their lordships allowed themselves to think that the feeling which prevailed among men, against the bill upon their lordships table, was limited to the lower orders of the population. So far from it, he spoke advisedly when he said, that the feeling against the bill of Pains and Penalties, in this business, was one almost as universal as the air. It was not confined to the lower orders, but it was the common and equal sentiment of almost every family and every individual of the community. Let them never give way to popular clamour, but let their lordships endeavour to retain that hold upon the affections of the people which it was absolutely necessary for them to do, in order to discharge those high and sacred duties with which they were intrusted. This bill of Pains and Penalties he considered to be so objectionable upon public principles—and

even the noble earl himself admitted it to be so objectionable upon many weighty grounds of difficulty—that it was not a proceeding proper to be resorted to. But a parliamentary impeachment would lie upon this occasion. That question having been determined, and proceeded in, the consequence would be, that their lordships might then determine upon the other—whether or no, under all the circumstances of the case, her majesty should be admitted to all those dignities, rights, and privileges, applying to the consort of the Crown of England? The noble earl again had stated, that even should they proceed by impeachment, that would be a course fraught with great inconvenience. Inconveniences, he must admit, there might be in it; but that consideration would not, he hoped, under the circumstances he had mentioned, deter their lordships from the proceeding. There were strong motives for it, upon principles of public policy and political justice. He had already told them that the general feeling of the public was eager, vehement, and universal against the mode proposed by the noble earl: and that it was a mode in every way liable to great objections. He would wish their lordships to consider, whether, instead of persevering in one so viewed by the public—one, of which they themselves had a distrust even at the very moment of acting upon it—it would not be better to abandon it, and to adopt some measure less liable to objection, and not surrounded by all those dangers that were to be apprehended from this proceeding under present circumstances? He would desire noble lords to consider what must be the consequences of the course which they were pursuing; and he would represent to them that the consequences of the House of Commons refusing to adopt an impeachment, such as he would recommend to them, would be of infinitely less importance and danger than those which he feared would follow from their persevering in the present measure. The noble earl had said, that whatever the errors might be which had been committed—whatever the mistakes or misconceptions of those who had framed the bill: yet that there their lordships were now, with the charge recorded upon their Journals, and there it must remain recorded to all posterity as a charge against the Queen, which, if proved, must make her an object of punishment and degradation. All this he admitted; but he had before admitted that there was no course which was not subject to inconvenience. If the House of Commons should refuse the impeachment, and this recorded bill should still remain, then they would be placed under a most peculiar difficulty, indeed, in considering what should be done with the Queen, against whom this charge had been so recorded, and against whom the House of Commons refused to proceed in the way he had been proposing, and which he considered the only proper one. That would certainly be a great inconvenience; it was one which they could not look at but with great pain; but it was one, also, which could not be avoided. But he wished the noble earl to consider the other side of his proposition. The noble earl had been betrayed, perhaps, into some little latitude as they were all likely to be, upon a subject of this kind, in what he had stated with respect to the proceedings in this matter in the House of Commons. Though it might be true that the House of Commons had abandoned their mode of proceeding in consequence of the adoption of a bill of pains and penalties in that House, he did not think the inference which the noble earl drew from this fact to be a correct one—namely, that the impeachment of the Queen was considered unadvisable, or that from its not having been adopted in the House of Commons, it was not a course which might be adopted by their lordships. If he knew any thing of the history of those proceedings, the noble lord who proposed their suspension in another place, expressly declared, that he wished them to stand so, in order to see what course the House of Lords might take in the business: in order, that if their lordships did not proceed, the House of Commons might, or might not, by virtue of the powers which it possessed. Why then might not the House of Commons eventually adopt that which he maintained to be the most proper and constitutional course—namely, a proceeding by impeachment? That it was the most constitutional course could not be doubted. In that case the House of Commons would be in the place of a grand jury, which a secret committee of their lordships had been most falsely and erroneously defined to be. The House of Commons, as the most popular branch of the legislature, was vested with powers to put certain matters in a train of judicial inquiry before that House, which was the highest

court of judicature in the kingdom. Supposing that the House of Commons, as grand jurors of the kingdom, should find a bill against the Queen, and present it at that bar.—Their lordships would then have to act in their judicial capacity, which her majesty's able counsel had stated they should infinitely prefer; but no proceeding, he thought, wherein their lordships acted partly in their judicial, and partly in their legislative capacity, could have the same desirable effect, or be equally satisfactory, with one wherein they should sit as judges in a court of judicature. But supposing that the proceeding were to come there from the other House, and as a motion of impeachment. What inconvenience in the case of their lordships refusal to concur with it, would follow? No more than every day day arose upon the findings of grand juries. Grand juries every day, found bills upon *ex parte* evidence, their determinations upon which were reversed by the courts of justice, who had an opportunity of proceeding upon better grounds, and investigating the whole evidence. All the information which belonged to those courts, besides that submitted to the jury which has found, and the power of examining upon oath, continually produced a contrary verdict or finding to that of a grand jury. The same might be the case here: and if so, what prejudice ensued? None. The House of Peers having this superior power of examining upon oath—having upon its benches persons of the highest legal knowledge, and being assisted by the learned judges themselves—would be enabled to form a more correct judgment on the case, and to take a view of it which the more limited forms of the House of Commons, and even its very constitution, did not admit of. But supposing that their lordships confirmed the decision of the other House; then, he asked, whether a proceeding so coming there, and being fully investigated, with all the forms and solemnities which belonged to their lordships proceedings, would not be infinitely more satisfactory to the public, than that which they were now called upon to support?

He had now stated the advantages of proceeding in the way he proposed. He admitted, at the same time, the inconvenience to be feared in the possibility (on the other hand) of the House of Commons refusing to proceed with the charge against the Queen. But let their lordships seriously contrast that inconvenience, with the appalling inconvenience which might result (and who would say that such a result was not possible?) if, after their lordships sitting there, examining witnesses upon oath, hearing counsel and observing (while acting, as he had said, both in their judicial and their legislative capacity) all the solemnities of that high court of judicature, they should pass a bill of degradation against the Queen; and that afterwards, being under the influence perhaps of popular clamour, or actuated by different motives, the House of Commons should throw out the bill? What, then, would be the difficulty in which they would be involved? Every one would be alarmed and terrified at the charge against the Queen, thus recorded in a bill which had never passed. Not only would not that charge be further proceeded in, but the case would be, that after that solemn charge and condemnation had passed their lordships, and been sent down to the House of Commons, that bill would remain recorded, which, after charging the Queen with all these crimes, and expressing the opinion of the House of Lords that a sentence of degradation should pass against her, had been thrown out of the House of Commons. Could their lordships tell him, in such a case, what they would do? Could they tell him, in this tremendous difficulty, how they would act? He had urged to them what was the public opinion, and what the universal feeling upon the bill on their table. Their lordships were judges in the last resort, and they were going to make themselves judges in the first. They were about to meet that fearful difficulty which he had been supposing. He deeply lamented that the proceeding had ever been originally proposed in this manner. And here he must state (and that in a manner which might give offence to some) what would be the character of that House with the country, in consequence of its having adopted the measure of a secret committee, after the House of Commons had refused to do so. He was afraid that the prediction which he had formerly ventured to make, as to the character of their lordships House, would be too speedily verified. Their path was strewed with difficulties upon whatever spot they put their feet. But let them, if possible, avert the calamitous consequences of entering upon a measure the dangers of which were inevitable. After the motion of the

noble lord had been disposed of, and the question upon the motion of the noble earl should have been put, "That counsel be called in," against which he should certainly vote, he hoped that their lordships would allow him to submit for their consideration another motion, which he trusted might lead to another and much better course of proceeding. If it should afterwards appear, that there was a refusal on the part of the House of Commons, to adopt such a measure, his proposition, he thought would entail upon their lordships much less danger and inconvenience than that which would arise from persevering in the present proceeding. He should therefore move, after the motion of the noble earl had been disposed of, "That the bill entitled a bill of Pains and Penalties for the purpose for degrading her majesty the Queen, does not afford the most advisable mode for prosecuting the charges which have been brought against her majesty; and that it is not, under the present circumstances, necessary or expedient to proceed further in the same for that purpose."

The Lord Chancellor proceeded to put the original question, and then the amendment of lord Liverpool, "that counsel be called in;" upon which latter their lordships finally divided: Contents, 181; Not-Contents, 65: Majority, 116. On our re-admission into the House,

Lord *Calthorpe* was speaking against the motion for calling in counsel. He begged their lordships to reflect how responsible parliament was for allowing a person of her Majesty's high rank to go abroad. By this step they removed the influence of public opinion, which was a great check on female conduct; and their lordships, by acquiescing in her leaving the country, submitted to the necessity of proving such charges as the present by the testimony of foreigners. He did not consider this a bar to all proceedings, for, after the report which the secret committee had submitted to the House, he thought the moral welfare of the state imperiously called for an inquiry; but he thought it advisable, that some expedient should be adopted that would put a stop to this particular bill, and at the same time pledge the House to pursue any other course of proceeding that the circumstances of the case might demand. Another point was, the difficulty that might arise from the other House of parliament rejecting the bill in its present form. If, therefore, there was any inconsistency in now stopping the bill, it ought to be submitted to in order to avoid the more serious dilemma in which they would be placed if the bill, after being passed in its present form by their lordships, should be rejected by the House of Commons. In proposing some further bar to the present proceeding, their lordships were not to suppose that he was influenced by popular clamours, for his opinion was, that they should act as if those clamours did not exist. He could not sit down without expressing his sincere regret that her majesty, before the report of the committee was made, had not been advised to accept those terms which were offered by his majesty's government in the course of the negotiations; and also that she had been advised to repel the wishes of a large majority of the House of Commons; because he was convinced, that those resolutions expressed the wishes of the well-disposed and well-affected in the country. He concluded by imploring the House to pause at this last stage at which a pause was practicable, and to consider whether it was not possible to suggest some other course, either by impeachment or otherwise, that should supersede the present mode of proceeding, and be more conformable to those institutes of justice by which their lordships' judicial conduct was usually regulated.

The Lord Chancellor now called upon earl Grey for his resolution, which the noble earl handed in. It was as follows: "That it appears that the bill now before the House does not afford the most advisable mode for prosecuting the charges against her majesty, and that therefore, under the present circumstances, it is not necessary or expedient to proceed farther with it." This resolution was put as an amendment to the motion of the earl of Liverpool, "That counsel be called in," and was negatived by a division, as follows: Contents, 64; Not-contents, 179: Majority, 115.

List of the Minority on the first Division.

Duke of	Glocester	Marq.	Lansdown
	Somerset		Downshire
	Grafton	Earl of	Derby
	St. Alban's		Suffolk
	Bedford		Denbigh
	Devonshire		Thanet
	Portland		Essex
	Hamilton		Albemarle
	Argyll		Jersey
	Leinster		Oxford

Cowper	Duncan
Stanhope	Clifden
Fitzwilliam	Downe
Hardwicke	Lord Dacre
Darlington	Saye & Sele
Ilchester	King
Waldegrave	Sondes
Grosvenor	Holland
Fortescue	Ducie
Carnarvon	Hawke
Rosslyn	Foley
Romney	Sherborne
Grey	Kenyon
Minto	Auckland
Breadalbane	Dundas
Rosebery	Yarborough
Besborough	Calthorpe
Darnley	Gwydir
Blesinton	Alvanley
Visc. Bolingbroke	Erskine
Torrington	Prudhoe
Hood	Pelhaven
Anson	

On the second division, upon earl Grey's amendment, the earl of Guilford voted for it; lord Calthorpe voted against it.

OPENING OF THE CHARGES.

The Counsel for and against the Bill were then called in; and the Attorney General was informed by the Lord Chancellor that he might proceed to open his case.

Mr. Attorney-General addressed their lordships as follows:—My lords; In obedience to your lordships' order, I now attend at your bar to fulfil the duty which your commands have cast upon me, of stating to your lordships the circumstances to be adduced in evidence in support of the charges contained in the preamble of the bill now under your lordships consideration. A duty, my lords, more painful or more anxious I believe was never cast upon any individual than that which I have now to perform. I have, my lords, to state to your lordships the circumstances which are to be adduced in evidence at your lordships bar, in support of the serious and heavy charges which are made in the preamble to the bill now under your lordships' consideration against the highest subject of this country—charges which not only reflect the greatest scandal and dishonour upon the individual against whom they are made, but also reflect great dishonour upon the country itself—the highest individual a subject in the country is charged with one of the most serious offences both against the laws of God and of man—that of an adulterous intercourse, carried on under circumstances of the greatest aggravation.

My lords; upon the nature of this charge—upon the importance of this investigation—it is quite unnecessary for me to enlarge. Your lordships, and every individual in the country, must be sensible of them. The only consolation I derive under the discharge of the duty which I have now to fulfil is this—that it calls upon me not to address your lordships' passions or your feelings upon the present occasion, but that I am sure I shall best discharge it according to your lordships' commands by abstaining from any observations which might tend to aggravate the charges made against the illustrious person, and by confining myself, in this stage of the proceedings, to a clear, simple, but full recital of the facts which are to be alleged in evidence.

My lords; we are now arrived at that period of these proceedings in which silence can no longer be preserved. It is now necessary that the charge, in its fullest extent, should be laid before your lordships and the public; and if, in the recital of the circumstances which I have to detail, I shall be under the painful necessity of bringing before your lordships scenes which must disgust every well-regulated mind—transactions which must offend the feelings of every honourable and virtuous person—I am sure your lordships will think that upon this occasion I ought to hold no reserve; at the same time taking care—as I assure your lordships I shall most conscientiously do—to state nothing which in my conscience, I do not believe I shall be able to substantiate in proof; but to withhold no circumstance from your lordships upon which I have the same conviction. I shall, therefore, my lords, without further preface, state to your lordships, as generally and as succinctly as I am able, the painful narrative of those facts and those circumstances which are to be adduced in proof at your lordships' bar. My lords; undoubtedly that recital must include a considerable space of time, and apply to facts which took place at various places which her majesty visited during her residence abroad. I shall therefore commence my statement at the period at which the evidence adduced at your lordships bar will commence in point of proof, and proceed as well as I am able, through the detail of the various facts and circumstances which took place from that period until almost

the time at which I have now the honour of addressing your lordships.

My lords; it is well known to your lordships and to the country, that in the year 1814 her majesty, for reasons operating upon her own mind, and not by compulsion, as has been insinuated at your lordships' bar, thought fit to withdraw from this country for a period——

Mr. *Brougham.* Persuasion, not compulsion.

Mr. Attorney General. I am sure that my learned friends do not desire to embarrass me; I know them too well: but observations made in a tone of voice to be heard are apt to embarrass one. But appearing before so public an assembly, and with the public expectation, and with the consciousness of my inability to do justice to the trust your lordships have cast upon me, I am sure I shall receive your lordships' indulgence for that embarrassment which no man, even of stronger nerves and greater power than myself, would be able to counteract.

Mr. *Brougham.* My lords; I am sure I did not mean to embarrass my learned friend: I am the last man to do it: but I am sure your lordships will permit—— [Order, order!] In every court it is allowed.——[Order, order!]

Lord Chancellor. Go on.

Mr. Attorney General. I am sure my learned friend will not believe that I alluded to him with any idea that he meant to embarrass me. I was stating, that in the year 1814 her majesty left this country for the purpose of travelling on the continent, and of visiting other countries that she had a desire to visit. She went, in the first instance, to her native country, Brunswick, and from thence, after a short interval, proceeded to Italy, and arrived at Milan I think about the 9th of October 1814. My lords; her majesty, when she quitted this country, quitted it with attendants, and with persons about her princely person—she being at that time Princess of Wales—suitable to her rank, and moving in that exalted station which one would naturally expect would be the case with persons whom she selected for her immediate attendants. She was accompanied, as might naturally be expected from an English princess, by very distinguished females of the country in which she enjoyed that high rank. Her establishment at that time consisted of two ladies of great rank—lady Charlotte Lindsay and lady Elizabeth Forbes, who were her maids of honour. She was accompanied by Mr. St. Leger as her chamberlain, and by sir William Gell and the hon. Keppel Craven; who also, I believe, officiated in a similar character as her majesty's chamberlain; by captain Hesse her equerry, by Dr. Holland her physician, and by other persons in the more humble situations in her majesty's suite, whose names it is unnecessary for me to enumerate to your lordships at this period of my statement. With this suite, and thus attended she arrived at Milan. Her intention was to proceed from thence to other parts of Italy, and to visit Naples. She remained at Milan for the space of about three weeks, and during that period a person was received into her service whose name occurs in the preamble to this bill; and, my lords, whose name will frequently occur in the course of these proceedings—a person of the name of Bergami, who was taken into her service as a courier, and also to officiate in the character of a footman or valet de chambre. My lords; this person was at that time in want of employment; but he had been serving in a similar capacity with a person, a general Pino, who was an Italian, and with whom I believe Bergami had, for some time, lived; but at the period to which I am now calling your lordships' attention, this person being in want of a situation, was, I believe, recommended to her majesty's service, and was received into her majesty's service in the character and capacity I have stated to your lordships. I need hardly remark to your lordships, that in that situation in her majesty's service, the distance which was interposed between the courier and her majesty was such, that in the natural course of life of such a high personage, the communication between her majesty and her courier must have been extremely rare and infrequent, and of course the distance interposed between them was such, that no familiar intercourse could—at least in an early stage of the service—take place under ordinary circumstances.

My lords; with the suite I have described to your lordships, composed of English ladies of high rank, and other persons whose names I have enumerated to your lordships, her majesty set out from Milan within a fortnight after this person, Bergami, was hired into her service—certainly not above fourteen or fifteen days. She proceeded from Milan to

Rome and from Rome to Naples, where she arrived on the 8th of November 1814. Your lordships, therefore, will perceive, from the dates which I have stated, that at the period of her majesty's arrival at Naples, this person in this situation, who had travelled as her courier through the whole course of this journey, had not been in her majesty's service more than three weeks. I beg your lordships attention to this circumstance, because your lordships will find how material it is when you come to attend to the facts which I shall have presently the melancholy duty to relate to your lordships.—I should have stated, that besides the persons who accompanied her majesty, and whom I have mentioned to your lordships, was a lad whose name is probably known to most of your lordships, William Austin—a boy at that time—upon whom her majesty bestowed particular attention. She appeared very much attached to him, and being a boy at the time I believe of six or seven years of age, he had been in the habit, from the time of her majesty's departure from England until her arrival at Naples, of sleeping in a bed in the same room with her majesty. My lords; the arrangement of the rooms and apartments of her majesty, at the different places at which she arrived devolved upon her servants, whose duty it was, to take care of that arrangement; and previously to her arrival at Naples, a private house having been taken for her majesty, that arrangement was made which had been previously made, placing the menial domestics, and Bergami the courier among the rest, in one part of the house, at a distance from that which her majesty herself occupied—rooms of course appropriated to her majesty, and one appropriated to her as her bed-room, in which room, as I have stated to your lordships, it was expected that this boy would continue to sleep as usual. On the first night of her arrival, November the 8th, to which I have called your lordships' attention, that arrangement continued. Bergami slept in that part of the house appropriated to the domestics of her majesty, in another part of the house; but, upon the following morning, November the 9th, the servants of the establishment learned with some surprise (because no reason appeared to them at the time for the change) that Bergami was no longer to sleep in that part of the house where he had slept on the night preceding, but that a room very near to that in which her majesty herself slept, and which had a free communication with it by means of a corridor or passage between the room in which she slept, and this room which was appropriated to this person, had been, at her majesty's express desire, appropriated to this courier Bergami. My lords; I need not state to your lordships that such a fact naturally excited the surprise of those whose duty it was to attend near her majesty's person; and that surprise was not a little increased when they learned from her majesty that it was no longer her pleasure that the boy William Austin should continue to sleep in her room. She assigned undoubtedly as a reason, that which was a very proper reason, if that had been the only motive for the change, namely, that he was now arrived at that age in which it became no longer proper that he should sleep in her room, and that therefore another apartment should be provided for him, and that the practice which, up to that time, had been continued should cease.

My lords; the arrangement was accordingly made. The bed room which I have stated to your lordships as having a very direct communication—a free communication—with her majesty's, was assigned to the courier; and, my lords, upon the evening of the 9th of November I think your lordships will believe, from the facts which I am about to relate to you, that that intercourse commenced which is charged in the preamble of the present bill, and continued from that time during the continuance of that person in her service. My lords; upon the evening of the 9th of November her majesty went to the opera at Naples; but it was observed that she returned at a very early hour. One of her maid servants who attended particularly to her bed-room happened to be present at the time of her return. My lords; she was struck with the manner of the princess. There was an air of agitation in her manner. Upon her return she hastened to her apartment. She gave strict orders that William Austin should not be admitted into her room upon that evening. She was observed to go from her room towards that which was assigned to Bergami, and to which she had previously herself retired; and she very soon dismissed her female attendant, in a manner quite novel—she told her she had no far-

ther occasion for her services. The female attendant retired, but not without those suspicions which those circumstances would naturally excite in the mind of any individual who had observed them. She knew that at that time Bergami was in his bed-room. This was the first alteration of the arrangement I have stated to your lordships, and placing him so near the apartment of her majesty; it was quite new that she should be dismissed in the manner in which she was; and she could not but observe the conduct and demeanor of the princess, which evidently marked there was something on her mind which the attendant had not previously observed. But, my lords, if her suspicions were excited upon that evening, they were confirmed by her observations upon the following morning. And, my lords, in any other case than such a one as that which is now to be presented to your lordships, if the evidence at your lordships bar shall prove that which I am now about to state, it would be, I apprehend, evidence upon which no jury would hesitate to come to the conclusion, that an adulterous intercourse had taken place upon that very night, between this exalted personage and this menial servant. For, my lords, on the following morning, upon observing the state of the rooms, it was discovered that it was evident her majesty had not slept in her own room on that night. The bed remained almost precisely in the state in which it had been upon the preceding day; and, my lords, the bed assigned to the other person had, to the observation of those who saw it upon the following morning, the clear decisive marks of two persons having slept in that bed.

My lords; I should state to your lordships, that these apartments of her majesty were at a distance and removed from those which were assigned to any part of the suite. My lords; upon the following morning it was perceived, that her majesty did not come from her room at the usual hour—that access to her majesty's room was not afforded; at least no one ventured to go in, until they received the necessary call or signal from her majesty, but her majesty remained in those apartments with this man Bergami in those rooms which I have stated to your lordships, until a late hour upon the following morning. My lords; her recent arrival at Naples had naturally induced persons to pay that respect to H. R. H. which her rank demanded; and various persons, upon the 10th of November, called at her house for the purpose of paying her those respects. But, my lords, her majesty was not accessible until a late hour upon that morning. I have already stated to your lordships the observations which were then made upon the state of the bed that was appropriated to her majesty and that which had been assigned to the courier Bergami. My lords; I say that here upon these facts, I think no one can doubt or hesitate upon the conclusion to which they will arrive upon the case, when I come to narrate to your lordships the various circumstances which subsequently occurred; your lordships will have no doubt, I think, upon your minds, that this was the commencement of that most scandalous, most degrading, and most licentious intercourse, which your lordships will find continued and increased, from the period to which I am now directing your lordships attention.

My lords; the natural effect of such an intercourse is to alter the comparative distance of the parties—I mean the distance which ought to exist between a person of royal rank and one of her menial servants. But, my lords, when once a person of that exalted rank demeans and degrades herself to such an intimacy as that which I have described, it naturally creates, in the manner and temper of the person with whom that intercourse is formed, a freedom and an assumption which, under other circumstances, they could not venture to assume. My lords; such was the case here. It was observed by the domestics, that Bergami's conduct became more haughty—that there was an assumption of more importance—and the whole demeanour of her majesty towards this person when she was unobserved by those persons of rank and station about her, was such as convinced those who had the opportunity of observing it, that this intercourse was continued and going on between them.

My lords; a few days, I believe, after the time to which I have now called your lordships attention, her majesty gave a masked ball or entertainment to the person who at that time filled the Neapolitan throne, at a house which, I believe, belonged to the then king of Naples, and which was given by her majesty in return for the reception which

she had received at that court. At that masked entertainment her majesty first assumed the character of a Neapolitan peasant; but after she had remained a short time at this entertainment, she returned to the house at which she had attired herself, which was not the house at which she resided, but a house near that at which the entertainment was given, and she withdrew to a room for the purpose of changing her dress; and, to the surprise of her attendants, instead of being accompanied upon that occasion by those females who usually assisted her majesty upon those occasions, the courier Bergami was sent for, and withdrew with her into the apartment, for the purpose of this change of dress. My lords; it seems that it was her majesty's intention to appear in a character which had been, whether selected by her majesty or the wish of some other person that she should assume I know not, but she was to assume the character of the Genius of History, and she was to be accompanied by a gentleman to the entertainment, in that character. My lords; I am instructed to state to your lordships, that the dress which she had assumed, or rather the want of it in part, was an extremely indecent and disgusting character. But, my lords, the material fact to which your lordships attention is to be directed is this; that that change of dress took place in the presence and with the assistance of Bergami; no other persons being at that time present. My lords; let me ask your lordships, in stating this fact, what motive can be assigned, what reason can be given, that a person who at that time filled one of the most menial situations in her majesty's service; who waited at table behind her majesty's chair; who rode as courier before her majesty when she travelled from one place to another—I ask your lordships what reason can be assigned by any reasonable person, why this man should be selected upon this occasion—why her attendants should be discarded at this time—and why he, and he alone, is to be present at the time, and to assist her majesty in this change of dress? But, my lords, more; after her majesty had appeared in this character, she returned a third time; and she then changed her dress, and assumed that of a Turkish peasant; and this courier—this menial—is also attired in a similar dress, and assumes a similar character; that of a Turkish peasant, I believe, and actually accompanies her majesty in that disguise to this entertainment given by her majesty to royalty, and at which the nobility and persons of the highest rank at Naples were at that time assembled. It will appear to your lordships, that Bergami did not long remain at this place; but he returned alone, apparently mortified from some circumstance which probably had occurred at that entertainment. Her majesty returned and pressed him to go again with her; but he declined. Her majesty was much disappointed at this—returned alone, I believe, and the entertainment soon after closing, she returned to her house, where the apartments in which the servants slept were arranged as I have already stated to your lordships, and which it is unnecessary for me now to repeat.

My lords; it was observed by those whose duty it was to attend to her majesty that in the morning when she rose and afterwards breakfasted, Bergami always rose just at the same period; and, my lords, they observed, that in those apartments so situated as I have stated to your lordships, at a distance from the other apartments inhabited by that part of the suite composed as I have stated to your lordships, her majesty was daily in the habit and practice of breakfasting with this courier. Your lordships will observe, that during the whole of the period to which I am now calling your lordships attention, this man's situation in the family remained the same. He was still the courier—he was still the valet-de-chambre,—at least still the footman; and, consequently, when her majesty dined, this man still continued to wait at the table; and therefore to those of her suite composed of the English ladies of distinction and the gentlemen of distinction I have enumerated to your lordships, at this time he appeared to them undoubtedly still in that character in which he had been hired into her majesty's service; and it was only in private and in secret, and only in the presence of those servants whose presence was absolutely necessary to perform those offices about her majesty's person which required their attendance in private—it was to them, and to them only, that at this period those familiarities were visible. But, my lords, her majesty did also occasionally walk upon the terrace which adjoined

the apartments which she herself occupied; and she was also seen by those persons occasionally walking arm in arm with this courier—with this menial servant.

My lords; it happened that during her majesty's residence at Naples this person met with an accident. He received some injury from the kick of a horse, and he was confined for some time to his room in consequence of that injury. My lords; he had already acquired that ascendancy over her majesty that he was enabled, even at that period, to introduce into the family a servant, and that servant, upon that occasion was selected by him for the purpose of attending upon him during this illness; and, my lords, this servant sleeping near the room in which Bergami slept, did, during the time that he was thus in attendance upon him, observe, more than once—I believe two or three times—that after all the persons in the house had retired to rest, her majesty went from her own room with great caution and great care, through the passage which I have described to your lordships, to Bergami's room, and that she remained there for a very considerable period. And I am instructed that it will be proved to your lordships, that at those times this person, after her majesty had entered the room of Bergami and had been there for a short time, heard sounds which convinced him that her majesty and Bergami were at that time kissing each other in that room in which Bergami slept. My lords; I am aware how these circumstances, disgusting as they are when detailed to your lordships, naturally excite that feeling which undoubtedly I anticipate must be excited in your lordships minds of disgust. It is with great pain I am under the necessity of doing it; but, as I have stated to your lordships, the duty cast upon me—nay, the duty cast upon your lordships—requires that I not only should state them to you—undoubtedly stating them to you with as much reserve as I can—but that I should state to your lordships those circumstances fully, that your lordships may perfectly understand the nature of the intercourse which at this time was going on between the parties, and the familiarities observed between them by those who had the opportunities of observation, and I am sure I shall not incur your lordships censure by detailing those facts, as I feel myself compelled to do in the statement I am now making to your lordships.

My lords; her majesty remained at Naples from the month of November to the following month of March, and during the whole of that period, it will be proved to your lordships that the intimacy continued and increased between those persons. My lords; I am not at liberty, and ought not to allude to any public rumour, or any thing but what can be substantiated in proof; but it is a little singular that her majesty at her quitting Naples loses great part of that English suite which accompanied her from this country. My lords; the fact itself needs no comment; it speaks volumes to every unprejudiced mind. Your lordships will find, that on her quitting Naples, several of those persons who had attended her thither remained at Naples and ceased to form part of her suite. Mr. St. Leger, I have stated, had quitted her at Brunswick; therefore my observation does not apply to him; but, my lords, lady Elizabeth Forbes remained at Naples upon her majesty's quitting that place. Lady Charlotte Lindsay left her majesty at Leghorn, in the month of March 1815, in the course of her majesty's proceeding from Naples to Milan; but at Naples was left lady Elizabeth Forbes; at Naples were left sir William Gell and the hon. Keppel Craven; at Naples was left captain Hesse; so that of seven English persons who had accompanied her majesty from this country—one of them undoubtedly quitting at Brunswick—to whom my observation does not apply—four of the remaining six left her majesty's service at Naples.

My lords; there may be, and probably will be, reasons assigned for those persons quitting her majesty's service at that period; but I cannot but think it a little singular, that at this period she should have been quitted by so many of those attendants who had accompanied her from this country. It will be hereafter, my lords, to be explained how this took place. I cannot help thinking, however, that your lordships will at least think there is great reason to believe that although not aware—as probably and undoubtedly they were not aware—of the degrading and vicious intercourse which had taken place between her majesty and Bergami at that time, yet that probably some observations might have been made by others with respect to the familiarities between them.

But whether that was so or not, the fact is that which I have stated to your lordships, that her majesty is there quitted by those persons.

My lords; during her majesty's residence at Naples, another circumstance well worthy of your lordships attention took place with reference to her majesty and Bergami. There was a public masquerade at a theatre in that city—the Theatre Saint Carlos, I think. Her majesty chose to go to this masquerade, and, my lords, not accompanied by lady Charlotte Lindsay, or lady Elizabeth Forbes, or any of those gentlemen who held the high situations of chamberlains in her majesty's service; but her companions on that occasion were the courier Bergami and a female servant who was a fille-de-chambre, a mademoiselle Demont—the only companions of her majesty on this occasion were those two domestics. My lords, the dresses chosen by her majesty on that occasion were, as I am instructed, of the most indecent description—of such a description, that upon her entrance into the theatre with those persons, Bergami and Demont, attention was generally excited; so much so, that they were received with considerable insult upon that occasion—I mean marks of disapprobation were shown by the persons present, insomuch that they were under the necessity of retiring; and they withdrew home hastily from that masquerade. My lords, how did her majesty go to that theatre? Not in her royal carriage accompanied, as I have stated to your lordships, by those around her who would naturally be her companions upon such an occasion, but a common fiacre was procured—they did not go out at the door, the common entrance to her majesty's house, but they crossed the garden in the night to this coach waiting at the garden gate, and these three persons in this carriage went, in the manner I have described to your lordships, to this scene; and, my lords, that took place which I have stated to your lordships, and they withdrew long before the entertainment would otherwise have ended, in consequence of the observations her dress occasioned. Perceiving that she was discovered, her majesty hastily withdrew to her house, accompanied by Bergami and Demont. Why, my lords, we have heard, in the course of what has already taken place before your lordships, some criticisms upon the language of the preamble of this bill, with respect to what may or may not be called indecent or offensive familiarities: but I ask your lordships whether if what I have stated to your lordships be proved, there is any one of your lordships, or any man in the country, who can doubt that the familiarities I have described were of the most offensive and disgusting kind—whether they were such as were fitting, I will not say to a person of the illustrious rank of H. R. H. but to any woman of delicacy or virtue, of whatever rank or station? For, my lords, let me not forget to state to your lordships, that, which if I did not state now, would, in the course of a very short period of my narrative have appeared to your lordships; and that which I believe your lordships will think is no small aggravation of these offensive and disgusting familiarities, that Bergami, at the time he entered into her majesty's service, was a married man. I say, my lords, adultery perhaps can hardly be aggravated: but here is a double adultery, if adultery has been committed; and, my lords, I will show to your lordships, that her majesty was aware of that circumstance from that which, very shortly after the period to which I am now calling your lordships attention, actually took place.

My lords; I do not here again repeat that which I am afraid I shall have too often to repeat in the course of what I have to state to your lordships, the various acts of familiarity which were daily occurring between those persons; because, if I were to do so, I must be constantly repeating the same guilty conduct. My lords; it will be proved to you, that during her majesty's residence at Naples, as I have already stated to your lordships, her majesty was almost daily in the habit of breakfasting with this courier—that they were in the habit of retiring to their rooms almost at the same moment—that her majesty dismissed from her bed-room the servant who had previously attended her majesty, and assisted in taking off those habiliments which she was attired with at the time she retired to rest—that those services were dispensed with, and that this occurred which never had previously, that Bergami, of all the servants of her suite, was the only person admitted to her bed-room without being sent for, or without giving some intimation at the door; but he was admitted at all times, without ceremony and without notice: whereas no other person in her suite or establishment at that time could venture to take that liberty.

My lords; as I have already stated to your lordships, the natural consequence of all this was an assumption with respect to the establishment; which your lordships will find very soon increased to that extent, that he became the lord and master of the family. That did not occur, undoubtedly, at the time he quitted Naples, except as to the one circumstance I have mentioned, of one servant being taken into the service who had been a friend and an acquaintance of his previously.

My lords; on her majesty's quitting Naples, which I believe was about the month of March, 1815, she went to Rome, where she staid a short time, I believe two or three days, at the European Hotel, and from thence to Civita Vecchia, where she embarked aboard a frigate in his majesty's service, called the Clorinde: she sailed in that frigate to Genoa, in the course of her voyage leaving lady Charlotte Lindsay at Leghorn; so that upon her arrival at Genoa she had no English lady of rank in her suite, but was at that time joined by lady Charlotte Campbell, who remained with her during the time she was at Genoa, and quitted her majesty's family in the month of May following at Milan. My lords; on her embarkment on board the Clorinde, Bergami still filled the menial situation of a courier and attendant at her majesty's table; and I mention this circumstance to your lordships, for a reason which I think you will, by-and-by, easily perceive. He waited behind her majesty's chair at the table during the voyage from Civita Vecchia to Genoa. My lords; at Genoa it was observed by her majesty's servants, that the confidence and intimacy which existed between her majesty and Bergami greatly increased, and that now he frequently withdrew at the time when it was ordinarily his duty to wait at the table, endeavouring to avoid that menial service as much as possible, accompanying her majesty in her rides and in her walks: and, my lords, at Genoa an apartment was again assigned to him very near her majesty's, and which had a communication with it; and the observation which had occurred at Naples was here made more frequently, that the bed appropriated to her majesty in her room appeared rarely to have been slept in.—My lords, so rarely, that the servant, whose duty it was to make it up daily, found it unnecessary to be at that trouble; for she found it often as being little discomposed—apparently not at all discomposed by a person sleeping in it. There was an appearance sometimes of the bed having been pressed down for the purpose of giving it the appearance of being slept in; but so little, that the servant contented herself by sometimes not at all touching the bed, and sometimes by only setting the counterpane or quilt right. My lords; Bergami's bed room was very near and had easy communication with her majesty's. Upon this part of the case, let me ask your lordships, why, if it was necessary, that a male attendant should sleep near her majesty, it was that one of those persons who filled the highest situations in her majesty's suite was not selected for that purpose, and how it happened, that this man Bergami, who had been known to her majesty not more than three weeks when first it took place—between whom and her majesty, except for the purpose of this disgraceful intercourse, little familiarity or intercourse could have taken place —I ask, why it was that this man was always selected to sleep near her majesty's person? How happened it that her majesty did not sleep in her own bed, and how happened it, as it will be proved to you, that Bergami's bed had frequently the appearance of two persons sleeping in it—and that her majesty was observed, as she was at Naples, to visit his bed-room after he was in bed, and to remain in that room with him for a considerable time? What, my lords, should induce a person filling the high rank of Princess of Wales to visit a common courier who happened to have received an injury—to visit him after he is in bed? Why, my lords, what reasonable, what possible cause can be assigned for this familiarity, but that which I think your lordships will believe took place, namely, that adulterous and licentious intercourse which existed between them.

My lords; I know that, upon this part of the case, it is incumbent on your lordships to be satisfied, by a reasonable evidence, that an adulterous intercourse had taken place; and, my lords, not only the circumstances that I have stated to your lordships occurred, but you will find, as the narrative proceeds, that if this evidence be not sufficient to satisfy your lordships as to the nature of the intercourse, it will be put beyond the possibility of doubt by other facts which I shall have to state to you in the course of my narrative. My lords; at Genoa again

began the practice I have stated to your lordships, of their breakfasting together in a retired part of the house, separate from that in which her majesty's suite resided; and here took place some circumstances which mark the power this courier was acquiring over her majesty by this degrading and disgraceful conduct of hers towards him. My lords; I have stated to your lordships that he was a married man. He had a daughter called Victorine; and, my lords, at Genoa this child is brought and received into her majesty's family. Not only the child, but a brother of Bergami's, named Lewis, was taken into the service. His sister, a person of the name of Faustina, was received into her family, for the purpose, as it was said, of assisting in taking care of this child, for whom Bergami had a great affection, and whom her majesty wished to adopt into her family. Nay, more, my lords; from the affection which this man was stated to have for one of his parents, the other I believe being dead, his mother also is removed into her majesty's family. So that at Genoa there are at once introduced his brother in a menial situation in the service, his sister, his mother, and his child, Victorine. Why, I ask your lordships, how is this to be accounted for? Is it usual in any family for a person who even for a long time has been in the service of his master or mistress, and may have faithfully performed that service—but still less for a man who has been but a few months in the service? for your lordships will find that he was received into her majesty's service at the latter end of October, 1814; but in the month of April or May, in the following year, a few short months after he has been so received into the service, his mother, his sister, his brother, his child, are all at once taken into the family, for no assignable reason whatever. When the child was taken into the family, I believe she was only of the age of two or three years—of very tender years at that time. But who is received into it to take care of the child? Your lordships would naturally suppose that a child of those tender years required the fostering care of her mother. But no, my lords, the wife is not received into the service. She remains apart from her husband—the child, the sister, the mother, and the brother are received; but the wife, who would be the natural person to take care of and to watch over the health of this infant, is not received into the family, but the child is withdrawn from her care, and received into it. And, my lords (which I think greatly aggravates the case), her majesty, though she knew that Bergami was married, as I will prove to you by her own declarations at a subsequent period, represented that which one should have thought would not have added to the esteem which she might have felt for a faithful servant: she represented to some of those about her, that Bergami was not married—that this was a child he had had by some person, and that she was on that account anxious to receive this child. My lords, I say that circumstance one should have thought, to a virtuous and to a delicate mind, would not have tended greatly to increase the estimation for the menial courier. But that was no defect in her majesty's eyes. She consented to receive the child, and, as I have stated to your lordships, consented to receive it under those circumstances.

My lords; her majesty remained in Genoa until the 15th of May. She then went from that place to Milan, leaving lady Charlotte Campbell at Genoa; but I believe lady Charlotte Campbell shortly after joined her at Milan; where, however, she remained for a very short time, finally quitting her majesty's service in that month of May 1815, having joined her majesty at Genoa in the month of April. My lords; in the journey from Genoa to Milan, Bergami still accompanied her majesty's carriages as a courier; but you will remark, that lady Charlotte Campbell did not accompany her majesty in that journey, though she afterwards attended her at Milan. In the course of this journey, it was observed by the servants, that her majesty frequently conversed with her courier—that she offered him refreshments from time to time, and showed the strongest marks of attention to him—he still habited and performing his services as a courier. My lords, at Milan, her majesty first lodged at some house in a part of the town where she remained only two or three days, I believe; but she went to another called the Boromeo, where she staid about two months. My lords, on lady Charlotte Campbell's quitting her at Milan, her majesty was left without any English lady whatever in her suite. One would have thought that, considering the high rank and station of her majesty—considering the expectation she had of

becoming queen consort of this realm—that she would naturally have been anxious, during the whole course of her absence, to have had about her person as her companions ladies of high rank and distinction of this country. But, my lords, if there were any difficulty in that, at least we should have expected that she would have looked for persons of a similar rank either in the country she visited, or in her native country Brunswick; but, will your lordships believe, that upon this occasion she received into her service a person whom she had never seen nor heard of — a person of vulgar manners—an uneducated person. But, my lords, who was that person? My lords, that person was another sister of the courier Bergami. The man at that time who filled that menial situation in her service and waited at her table, contrives, by the power he has assumed over her majesty, to obtain admission for a female, designated as the countess Oldi, and who is her majesty's only female companion on the travels on which she was about to proceed. So that your lordships have now two sisters, the mother, the brother, and the child received into her majesty's family — the sister sitting at table with her majesty as lady of honour, Bergami waiting at table as courier, the brother performing menial services, the mother dining at the table with the servants, Bergami dining at the table with the servants, and the sister received into the family as lady of honour!

My lords; it was known to some persons at Naples, that the countess Oldi was the sister of Bergami. It was not known to any other of the suite. She carefully abstained from communicating that circumstance to others. Bergami was anxious to conceal the fact; but it could not be long concealed, and the fact became known that the sister of Bergami was received into her majesty's service, in the month of May 1815, not only as her lady of honour, but as the only person filling that high rank and situation in her majesty's service, which had been previously filled by those ladies of distinction of this country whose names I have stated to your lordships, lady Charlotte Lindsay, lady Elizabeth Forbes, and afterwards lady Charlotte Campbell. What inference can your lordships draw from this circumstance? Not that I am asking your lordships to decide on inference and suspicion—but, when your lordships couple this with other circumstances I have stated, and shall hereafter state, can any man doubt what was the cause, what was the motive, what was the reason, for the introduction of those persons into the service?

My lords; her majesty had not been long at Milan before she made a tour to Venice, and upon that tour Bergami still accompanied her as a courier. My lords, to show your lordships the degree of familiarity which existed between those persons, I will now state to your lordships a circumstance which occurred on that visit to Venice in the month of May or June 1815. I have stated to your lordships the different periods at which the English gentlemen had quitted; but she had been joined at Milan by Mr. Drummond Burrell, who accompanied her to Venice.

Lord *Gwydir*. — My lords, I must beg leave to set the learned counsel right, by stating, that it was not Mr. Drummond Burrell who accompanied her majesty.

Mr. Attorney General.—My lords; I mean Mr. William Burrell. I am sure your lordships will believe that I am betrayed into the error by carelessness, but that I did not mean the slightest reflection upon the noble lord, or upon the gentleman whose name I mentioned. My lords, I am stating to your lordships the facts—I mean not the slightest reflection upon any of those gentlemen whose names I have mentioned; but that Mr. William Burrell was the only English gentleman who had replaced those gentlemen I have stated to your lordships, and that he accompanied her majesty on that tour from Milan to Venice. I am not imputing to Mr. William Burrell—far from it — the slightest suspicion. I have no doubt he was ignorant of that which was taking place in her majesty's family. I undoubtedly did not state that Mr. Burrell was cognizant of the facts I have stated. I am sure your lordships will excuse me in the difficult task I have to perform, and will excuse the error into which I fell. I was about to state to your lordships a fact which took place at Venice. My lords, at Venice, upon one occasion, when after her majesty had dined, and her attendants had withdrawn from the table, and she was left in the room with Bergami, who had been waiting upon that occasion, and was still, as I have stated to your lordships, in the situation of courier, it was observed, not by one of

her own attendants, but by one of the servants at the hotel, that, after the company had retired, her majesty took a gold chain and presented it to Bergami and placed it upon his neck—that upon that occasion there was a great familiarity and playfulness between those persons. He withdrew it from his own person, and placed it upon her majesty. Her majesty replaced it upon him; and this occurred in the presence of one of the servants of that establishment. My lords, why do I mention this fact? I mention it to show your lordships how this familiarity was proceeding—how this improper intercourse was increasing between these persons, and that, even at that time, when he was filling this menial situation, she was conferring upon him this favour, and marking him out from all the rest of her suite, by this present she had made to him at Venice. After this had taken place, she went to the room to which the other parts of her suite had retired; and, in stating this, I am imputing nothing, I trust, to any person but to her majesty and Bergami; but your lordships will think that it is a fact which strongly confirms the other parts of the narrative which I have been making to your lordships, and which proves conclusively the familiarity and intercourse which at that time existed between those persons.

My lords; her majesty returned, after a few days, from Venice to Milan, and after her return she went to the house of the Villa Villani. Here, after she had been a short time, Mr. William Burrell quitted her majesty's establishment, he having remained with her a short time when she was at Milan upon the tour to Venice—and upon her return to Milan to the Villa Vallani, Mr. William Burrell quitted,

My lords; it was observed by the servants, that by degrees as the English establishment quitted till they had totally quitted—for she had not now one English servant — her majesty was less reserved in her intercourse with Bergami. It was observed at the Villa Villani, that she had presented him with a gown of her own—a silk bed-gown, which Bergami wore as a morning gown. My lords, it was observed at the Villa Villani, that the arrangement of the rooms continued as it had at the other places—that his room was very near that which she occupied at night—and that there was a free communication to go from one to the other, without being observed by the other parts of the establishment. Here again that was observed which I have already stated to your lordships, that Bergami had free access to her majesty's bed-room without ceremony, without notice — and that he was the only person of the suite who had this permission and licence given to him.— My lords, after Mr. Burrell had quitted, and after, as I have stated before, all those had withdrawn from her service who had accompanied, who went with her from this country, and when no English lady remained about her, and no English person of distinction in her train, her reserve to Bergami became less, and she became also more familiar with the rest of her servants. My lords, I do not impute it to her majesty as a crime or an offence, although I think she much demeaned herself; but I can attribute it only to this most unfortunate, this most wicked attachment she had formed for her courier, who was one of those servants. She was in the habit of familiarly playing with her servants at games. When I state this, I do not impute this to her majesty as a crime by itself: it may be nothing; but when you consider the reasons, the occasions, the circumstances, under which this familiarity took place—I say, my lords, I think it must prove to your lordships satisfaction, that it arose out of that degrading, that licentious attachment which she had formed for the courier Bergami, and that no other circumstance would have tempted her majesty to demean herself to those acts of familiarity which she was in the habit of showing, not only towards him, but towards her other servants, by playing at games at the Villa Villani.

My lords; during the time she remained there, during the mount of August 1815, her majesty visited Mount St. Gothard, and upon that occasion was accompanied, as she always was, by Bergami, who still, I believe, filled the station of courier in her service. My lords, upon that occasion she visited a place called Varise. She stopped at the inn at Varise, where she dined; and it will be proved to you, that upon that occasion she retired with Bergami to a bed-room, and was shut up in that bed-room with him for a considerable time. This, my lords, in the day-time—at a period when no apparent reason required the attendance of Bergami; who was still her courier — but such the fact was, that she did retire with him, and was with

in a bed-room for a considerable period. My lords, after that dinner they proceeded to a place called Madona della Monte, where they slept, and the next day they went to the Boromean Isles. My lords, her majesty had visited that place, in her way from Germany to Italy, and upon that occasion, as was natural, a large apartment, the best I suppose which the inn afforded, was assigned to her majesty for her bed-room. The persons at the inn naturally expected that the same apartment would be occupied by her majesty upon this occasion; but, my lords, that room had no communication with any other room in which a person could sleep: and it is remarkable, that upon this second visit, when she was accompanied by the courier Bergami, she alters the arrangements of the rooms—she declines to occupy that which she had occupied upon her first visit—and she solicits another and an inferior apartment, but which other and inferior apartment immediately communicated with the room which was assigned as the sleeping-room of Bergami. Why, my lords, this I say is a little singular. What reason is there for this? What situation does Bergami fill in the family which requires that he should always sleep in a room adjoining that of her majesty? How is it that he is the person selected by her majesty out of her suite to occupy a room which had immediate communication with his? However, my lords, such was the fact; and I mention it to your lordships to show the difference—that when she had not been accompanied by Bergami, and before he unfortunately entered her service at the time she first visited Italy, another room was assigned to her, which was superior in point of accommodation: But that she refuses upon this occasion, and chooses one near Bergami's and having communication with it. That was, my lords, as I submit, undoubtedly for the purpose of keeping up that intercourse which could not have been the case, at least without exciting observation, and not only observation, but discovery, if her apartment had remained at a distance from that assigned to him; but having taken care to have his room near her own, then the communication was easy, without observation, and afforded the means of continuing that intercourse that had previously existed.

My lords; her majesty also, upon that occasion, upon their return, stopped at a place called Bellinzona; and I mention that place to your lordships because I think it will appear to you, that now indeed their familiarity had arrived at that height, that Bergami thought himself entitled to a much higher place in her majesty's service, and that he was then entitled not only to a much higher place in her majesty's service, but to sit at her majesty's table. My lords, undoubtedly before this, except perhaps upon one occasion, I know not whether upon any, except breakfasting together in private, when no person observed them but those in immediate attendance upon her majesty, she had ventured before this period to introduce Bergami at her own table. But at Bellinzona this man, still retaining the dress of a courier — still performing the menial offices of that service—is actually admitted by her majesty in that dress to her majesty's table at dinner. And I believe your lordships will find, from that period, that he constantly, and afterwards uniformly, dined at her majesty's table. Why! my lords, does this accord with the dignity of a princess?—My lords; if there were such merits in this man which entitled him to advancement, and to high favour and distinction on the part of her majesty, would it not have been more decorous—would it not have been more appropriate in her—to have first advanced him to those situations which would have entitled him to dine in company with her majesty, and at her majesty's table?—But no, my lords, this infatuated attachment had so taken possession of her Majesty's mind, that she actually, in the presence of her servants, admits this man, in the garb of a servant, to dine as a companion with her. My lords, I may be told this is pardonable familiarity—that this is levity—that these are foreign manners. My lords, I know not whether these observations, if they shall be made, will have any weight with your lordships; but I cannot think that, under any circumstances, such familiarity was allowable between a person of the high rank and station of her majesty and one of her menial servants. My lords, was it ever heard of—I will not say in high society—but even in the middle ranks and classes of society, that they admit as their familiar companions at their tables, persons at the time performing menial offices in their houses? My lords, if this does not take place in private life—if it would be considered as indecor-

ous—how much more indecorous, how much more disgusting, is it when it takes place between a person of the exalted rank and station of her majesty, and a servant holding a menial capacity in her service! My lords, I say, can this be accounted for upon any other reason or motive, than that criminal attachment which had been formed?—My lords, when once such an attachment as that has been formed, and a criminal intercourse has taken place, all distinctions between the persons are thrown down—the lowest and the most vulgar person becomes upon a level with the highest, and they assume—and they assume that which they have a right to assume towards such persons—to be treated by them with the same attention as a person of the rank equivalent to that her royal highness enjoyed—which was the case with this person at that period, and continued to be so.

My lords; upon that occasion also they visited Lugano; and at Lugano your lordships will find the most decisive evidence of that which occurred at various other places of an adulterous intercourse taking place between them. The arrangement of the rooms at all these places is abreast, always the same, and care is taken that the room of the courier Bergami shall be near that of the Queen. And, my lords, without entering into disgusting particulars, your lordships will find that upon the visit at Lugano, at least I think when the evidence comes before your lordships you will be satisfied of that which the facts of the case I think will have left no doubt upon your lordships minds had previously existed—namely, that an actual adulterous intercourse took place between those parties.

My lords; upon her return from this tour, her majesty established herself at a villa near Como, the Villa d'Este; and your lordships will find that, upon her establishment at this place, the bed-rooms of the Princess and Bergami were arranged in a manner similar to that I have described to your lordships as taking place at the various places her majesty visited—that they were divided only by a small cabinet communicating internally with the chamber on the one side of her majesty, and on the other of Bergami, the doors of which chambers were opposite to each other, and the apartments thus assigned to her majesty and Bergami being at a distance and separate from the rest of the family. My lords, here was observed to take place that which I have already stated to have taken place before, that the Princess and Bergami retired to their bed-room about the same period, and rose about the same hour in the morning, and during her residence at the Villa d'Este, her majesty thinking, no doubt, that it would at least appear better to the world that he should appear in a particular character, he was advanced to the dignity of her majesty's chamberlain, and in that character constantly dined with her majesty, and from that period, without interruption, he dined at her majesty's table, with the dame d'honneur or countess Oldi, and those persons admitted to that honour.

My lords, she continued at the Villa d'Este till the month of November 1815. She then went to Genoa, and on the 15th of November 1815 she embarked on board one of his majesty's ships of the line, the Leviathan, and proceeded in that ship to Sicily. My lords, on her going on board the Leviathan, apartments, the best that could be provided, were naturally allotted to her majesty. It had been thought, of course, by those who were not aware of the intercourse which had taken place between her majesty and Bergami, that the proper mode of assigning those apartments would be to place her female attendants as near her majesty as might be; and therefore two cabins in the inside of the room used as a dining-room were prepared, one for her majesty and one for her lady of honour; a cabin immediately adjoining this, at least adjoining her majesty's room, was assigned to another female servant, in her majesty's suite; but, on her majesty's coming on board, that arrangement of the rooms was altered, and her majesty directed that the room immediately adjoining her own, and which I have stated to your lordships had been supposed a proper room for one of her female attendants, should be appropriated to the use of Bergami. My lords, she remained on board this ship from the 15th of November, when she embarked, until the 26th. I think, in the course of her voyage, she visited Elba, where she staid a day or two. She then sailed to Palermo, where she arrived on the 26th of November 1815. My lords, on board this ship Bergami, as her chamberlain, continued to dine at her majesty's table; but, as was naturally to be expected, your lordships will find that she was extremely cautious, and had been

even before this period, in the habit of avoiding in the course of her travels, the meeting with any English persons on the continent. During her short stay on board this ship, she took care to conceal from the eye of those who were strangers to her those familiarities which had commenced, and were no doubt continuing, between herself and Bergami. But, my lords, she did that which I have stated to your lordships—she altered the arrangement of the cabins—she treated Bergami with the greatest familiarity as her chamberlain—she frequently walked with him arm in arm upon the deck, and she appeared particularly attentive to him.

My lords; her majesty arrived at Palermo on the 26th of November 1815, and at Palermo she went to court, and was accompanied by Bergami to the court of Sicily, attired in a very magnificent hussar dress in the character of chamberlain. She remained at Palermo for a very short period, and then went to Messina, where she remained from December the 6th until early in the following month of January—I think the 3rd of January 1816. My lords, upon her arrival at Messina, in the house which she occupied there the same arrangement again took place with respect to the bed-rooms of herself and Bergami—the bed-room of Bergami was very near to the Princess's, but separated by one in which the countess Oldi, his sister, slept—so that in order to arrive at the room of the Princess, you must pass through the room in which Bergami slept, and then the room in which the countess slept. My lords, it was observed that the door of Bergami's room, which, as I have stated to your lordships, opened a communication through his room and through the following room, to that of the Princess, and was the only communication door, was constantly locked at night after her majesty and after the countess of Oldi had retired to their rooms.—But, my lords, the apartments of some of the servants who attended upon her majesty—of one at least—was sufficiently near for her occasionally to hear that Bergami was actually in the room of the Princess—and more, it frequently happened in the morning, that when her majesty wanted the assistance of her servant for any purpose about her person, she was frequently seen coming in the state in which she had left her bed, without being dressed, through the room of the countess Oldi and the room Bergami himself occupied, and before he had left it. And, my lords, it was observed, that Bergami and the then Princess, her present Majesty, frequently retired at Messina at a very early hour in the evening to their rooms; and that, instead of requiring the assistance of any of her female servants for the purpose of retiring to her bed, that after they had so left the other part of the house and retired to their rooms, they were not seen again from that period till the following morning, and that no assistance was required on the part of the female servants to her majesty previous to her retiring to her bed—frequently she would withdraw without calling either (for her majesty had at that time two filles-de-chambre) to undress her. She became very regardless of her person—she became more apparently endeared to this chamberlain—she called him by the most familiar and endearing titles—"her friend," "her heart," and various other epithets she used when she addressed him. So that no doubt remained upon the minds of those who were in the daily habit of seeing those familiarities and hearing those expressions, and regarding this conduct, that those familiarities which would alone justify those expressions, did continue between them.

My lords; on the 6th of January 1816, her majesty left Messina, and upon that occasion embarked on board the frigate the Clorinde, which had, as will be in the recollection of your lordships, carried her majesty, after she left Naples from Civita Vecchia to Genoa. My lords, the vessel was still commanded by that same honourable person who had commanded her upon the former occasion; and, my lords, it will be in the recollection of your lordships, that at the period when her majesty first went on board, Bergami had attended upon her in the character of a menial servant, and had waited upon her at table. My lords, upon this second occasion he had been advanced to the dignity of chamberlain, and had been permitted by her majesty to dine at her table. The honourable officer who commanded the Clorinde, and who had previously seen Bergami in the low situation I have described, felt that it even would degrade the English service and himself, if after having witnessed that, he consented or permitted himself to sit at the table with her majesty in company with this person; and therefore an intimation was

given by that honourable and gallant officer captain Pechell to her majesty, that if her majesty condescended to come on board his ship, and he was to receive her majesty, as he was bound to do, and to provide a table for her and her suite, he must request her majesty to spare a British officer the disgrace and scandal of sitting at table with a person who had filled that menial situation.—My lords, I think every man—every Englishman I am sure—will enter into the feelings of that honourable officer. I think the conduct of her majesty upon that occasion marks most strongly, how deeply she must have felt the objection which had been taken by this gallant officer; because, my lords, if there had been nothing improper in the advancement of this man—if, as we may probably hear, his manners, his fidelity in her service, had rendered him an object worthy of her majesty's condescending regard, and had rendered him entitled to be advanced to the high situation he then filled — my lords, I say, the princess, feeling this, would have said, "Do not make this objection. Do not object to sit down with a person of this character, and of these merits. I have not demeaned myself by permitting him to dine at my table, and therefore let me tell the British officer, whoever he may be, that I think he will not be degraded or lowered by associating with such a person." Nay more, I think she would have said, "You are offering me an insult by refusing to associate with this person, with whom I associate. You are offering an insult to me, a princess of the highest rank in my country. You are offering an insult to that country itself. I shall therefore complain of you to that country which has provided me with a ship of war, to visit the places I may be inclined to visit. I will not go on board your ship, but will represent your conduct to your commanding officer, and insist that you shall make that recompence for the insult to me and the country which such conduct demands." I say, my lords, that would have been the conduct of a princess with an inward consciousness of innocence; and if there were not the conviction that this was a most scandalous intercourse originating in that licentiousness which existed between them, such would have been her conduct without hesitation, without reserve; and we should have instantly heard of a complaint made to the commanding officer upon the station. But, my lords, what was the conduct of her majesty upon that occasion? She takes a day or two to consider whether she will consent to captain Pechell's suggestion, and whether she will consent to dismiss this person from her table. And not only that, but she expostulates, and says, captain Briggs of the Leviathan had no objection to associate with him. Upon which captain Briggs said, "he had never waited behind my chair. I did not know him in the degraded situation in which he had been, or I should have acted as captain Pechell has done." Your lordships will remember that captain Pechell had been himself waited upon by this very man in the presence of his officers; and can you consent to compel him now to sit down with this man at the table, as his associate and companion, who had himself stood behind his chair as a menial servant? A difference must strike your lordships minds between the one and the other. Her majesty notwithstanding that, took a day or two to consider of this proposition. And I say, that that hesitation, that that delay, to my mind, is a most convincing proof that she was actuated upon that occasion by that unfortunately infatuated attachment which had laid hold of her, and induced her even to submit to this insult (for insult it was, unless there was that reason for it), rather to submit to this insult than consent to abandon this man's society, even for the few days she was on board the Clorinde; and she embarked on board the ship, and refused to associate with captain Pechell, in order that she might associate at the same table with the countess Oldi and her brother Bergami. Now, I ask, whether this does not convey, more than any thing I can express to your lordships, the conviction of that which had taken place, and was continuing between these persons? She consents to be insulted by an English captain—she consents to have it stated to her, that she has advanced a person from a menial situation to her table, and from which circumstance the captain refused to associate with him, and, without any complaint made of the captain's having so refused, she goes on board that ship, and associates with him, and separates herself in consequence from the captain—she consents during that period to submit to this insult and degradation—she consents to associate with a man whom the captain of an English frigate refused to admit to his own table—be-

cause he had filled that menial situation, and because no reason was given — no cause assigned — for the advancement of the man from that situation to the higher; and therefore from the mere circumstance, without any reason assigned, (captain Pechell did no more than his duty to himself and to the persons filling the high situation of officers in his majesty's navy by his conduct.

My lords; the Queen yielded. She declined persisting in captain Pechell's sitting down at table with her favourite — and she embarked on board the Clorinde and sailed from Messina to Syracuse, where she landed in four or five days. My lords, at Syracuse, in the house in which she lodged, the same arrangement which I am afraid I tire your lordships almost with repeating — but which it is essential to the case to state — the same arrangement takes place with respect to the bed-rooms. My lords, there were three bed-rooms in the house which she occupied at Syracuse — one occupied by the princess, another by the countess Oldi, and another by Mademoiselle Demont and her sister, the two filles-de-chambre; but there was a private staircase, and it was observed the door of the princess's room communicating with the dining-room was always locked at night; by which means all access to the apartments of Bergami and the princess was cut off, leaving a free communication by means of this private staircase, between her room and that of Bergami. Such was the arrangement of the rooms at Syracuse.— My lords, on the 3rd of that month, she left Syracuse and went to Catania. Your lordships will perceive how material it will be for you to attend to the arrangement of the rooms which originally took place at Catania, and the alteration made therein by her majesty. My lords, at first a room was allotted to Bergami at some distance from her majesty's room; but in a very short time that arrangement was altered, and Bergami's room was removed — he removed himself from the room which had been previously allotted to him, to a room very near to her majesty's, but in going from that room to her majesty's, you must pass through a room which had been allotted to some of the female servants of the house. My lords, the princess and Bergami retired to their rooms earlier than the other persons in the family. These filles-de-chambre had been generally awoke early by the other servants in the family, and therefore did not observe what might be taking place between the Queen and Bergami; but during one morning these servants, remaining longer in their room than usual, observed the door of Bergami's room open, and I will not say to their surprise; for they were perfectly satisfied of what had taken place — the princess was observed going out of Bergami's room at this hour in the morning, and where, therefore, she must have been during the night — for those persons had never observed her go in during the night, and she could have gone in only by passing through this room — they saw her coming out at this hour in the morning, under circumstances which will satisfy your lordships that her majesty had slept that night in Bergami's room — and I will tell your lordships why. She had under her arm a pillow, upon which she always slept, and she was carrying that pillow under her arm from Bergami's room, at the time she was seen by those two servants. Why, my lords, your lordships are not to decide on inference and suspicion, undoubtedly: but you are to decide on reasonable evidence; and I ask your lordships whether in any other case that fact alone — if it were a common case of divorce — that fact alone of a lady having been in the bed-room of a man all night, and having been seen coming out of it in the morning under the circumstances I have stated, would not be sufficient to satisfy any jury of the country that a criminal intercourse had taken place between them? But, when you add to that, the circumstances to which I have called your lordships attention, I mean the other familiarities, and his advancement, no doubt can remain upon the mind of any person, as to the familiarities which had occurred. What reason can be assigned for her coming out of that room with that pillow? And, not only that, but she was at that time undressed; which is a material circumstance. My lords, I say this fact alone, if it be proved to your lordships satisfaction, must satisfy your lordships' minds, that that had taken place during that night, which is charged against her majesty in the preamble to this bill. My lords, another circumstance which occurred at Catania, and which is mentioned for your consideration, is this: your lordships will recollect I mentioned that at Genoa, Bergami's child was received into her majesty's family, and such an extraordinary attachment appears to have

been formed by her majesty for this child, that she was never easy or satisfied, but when this child was with her. The child slept in her room—it was dignified at last by the name of princess, and the child, withdrawn from its mother; and susceptible of all these attentions, naturally conceived on her part an attachment to her majesty so great, that frequently at night, if her majesty was withdrawn from the room, the child if it awoke would express its concern at the absence of her majesty, by crying. And, my lords, upon this occasion these servants frequently heard this child crying for her mamma, for that was the title by which she was permitted to call her majesty: they heard the countess endeavouring to quiet this child, but they heard no symptoms of her majesty being in that room, but that which satisfied their minds that she was absent from it, namely, the pain of the child's mind, and the difficulty which the countess of Oldi had to pacify this child. When therefore they saw the princess coming from this room, that left no doubt upon their minds, that that was not the only occasion on which she had slept in that room; but that she had previously gone to that room before they came to bed at night, and had not returned till they had left their room in the morning. This must satisfy your lordships minds, that this adulterous intercourse had taken place during the whole time of her residence at Catania. But at Catania her majesty thought it right, having advanced Bergami to the dignity of her chamberlain, to procure for him higher honours, and at Catania she procured for him the dignity of the knighthood of Malta. From that time she called him (and her suite were of course obliged to follow the same course), his excellency, and she always addressed him as "Monsieur le Chevalier." My lords, what necessity was there for her majesty to dignify him with this knighthood?—None, but that guilty attachment. There was nothing on his part which entitled him to this distinction—there was nothing but this attachment which could be the ground of her majesty's procuring him this dignity. My lords, I should state to your lordships, that when she first visited Catania, as was natural, the nobility of that country paid her those attentions which were demanded by her rank; but it was observed, that after a short time, she was careless of any other society but that of her paramour,—became less and less visited, and rarely seen in the company of the nobility of that country.

Lord Chancellor.—My lords, the hour has arrived at which your lordships proposed to adjourn.

A Peer.—Has the Attorney-general nearly concluded?

Mr. Attorney General.—I should state to your lordships, that I have not got through one half of the disgusting narrative I must state to your lordships.

Ordered, that the further consideration, and second reading of the said bill, be adjourned to Monday.

HOUSE OF LORDS.

Monday, August 21.

The order of the day being read for the further consideration and second reading of the said bill, counsel were called in, and

Mr. Attorney General resumed his speech, as follows:—

My lords; I have now to resume the statement of the facts which are to be adduced in evidence to your lordships, and which I commenced on Saturday. The last time I had the honour of appearing at your lordships bar, I believe it will be in the recollection of your lordships, that I had in that statement brought her majesty, then princess of Wales, and her suite, to Catania in Sicily; and before I continue the narrative which it is my very painful duty to recite to your lordships, I would beg leave to supply an omission in the statement I made on Saturday with respect to her majesty's suite; for it will be in the recollection of your lordships, that amongst that suite I enumerated the name of Dr. Holland, and I believe I did not apprize your lordships of the period at which that gentleman left her majesty's service. My lords, I think it right to bring the fact before your lordships; because otherwise, upon the statement I made, your lordships might be under the impression that he had continued in her service up to the period to which I have brought the narrative; but he left her majesty at Venice upon that tour which I stated to your lordships was made by her majesty from Milan to that port, in the month of April or May 1815, and about that period her majesty took into her service two gentlemen whose names I did not state—a Mr. Hownam and a Mr. Flynn, both of whom

had been, I believe, in his majesty's navy.

My lords; from Catania her majesty proceeded, as I was about to state to your lordships, to Augusta in Sicily, in the month of March 1816. My lords, I have stated that during her majesty's residence in Catania she had procured for the person named Bergami the title of the knighthood of Malta; but soon after her arrival at Augusta, not satisfied with the honour she had thus procured, she then procured a title of a higher nature, namely that of baron. She procured from the Sicilian government the title of Baron della Franchina, and he from that time was always addressed by her majesty and her suite by the title of "baron." My lords, I am not aware what circumstances had occurred to have induced her majesty to procure that additional honour, other than those I have stated, namely that familiar intercourse of which I apprehend I have already satisfied your lordships; but if there was any doubt, the facts I shall have the painful duty to relate, must remove that doubt, not only that there was that licentious familiarity which the circumstances I have stated must satisfy your lordships had at that time continued beween them—but an actual adulterous intercourse continually carried on between her and Bergami.

My lords; I should state to your lordships that either at Augusta or Catania, her majesty sat for her picture, one or two of which she presented to Bergami. I believe in one of them she was drawn in the character of a Magdalen, with her person considerably exposed; in another she was drawn as a Turkish female, the little child Victorine introduced in a Turkish dress, and that Bergami's picture also was taken upon that occasion for her majesty in a Turkish dress; and that one if not two, of her majesty's pictures were presented by her to Bergami. As I have already stated to your lordships, it is impossible to account for these presents and these extraordinary marks of her majesty's favour towards Bergami at that time, upon any other ground than that intimacy and that intercourse which I have already had the pain to describe to your lordships.

My lords; from Augusta her majesty set sail upon a voyage to Tunis, afterwards visiting Greece and other parts in the East. For that purpose she hired a vessel, a polacre, as it was called, for the purpose of this voyage. It will be necessary for your lordships again to advert to the arrangement made on the part of her majesty with respect to the distribution of her servants and suite on board the vessel. When first she went on board, her majesty's sleeping apartment, as well as that of the countess Oldi, her lady of honour, were assigned to her within a room which at that time was used by them as a dining-room; the communication to her majesty's bed-room being through this outer room, and there being an internal communication between her majesty's room and that appropriated to the countess Oldi into this room, which was on the outside of these two sleeping apartments: there were two doors, both of them leading from the cabins, one of them near an apartment assigned to some of her female attendants, the other on the opposite side. For a few nights Bergami's sleeping apartment was at a distance from her majesty's; but an alteration then took place: one of the doors leading into this outer room through which the communication was to her majesty's apartment was ordered to be closed up, leaving only one entrance into that room which had previously not been used as a sleeping room, but a room in which they dined, or a passage room, and a bed was brought into that room for the accommodation of Bergami. My lords, that bed was placed in such a situation, that when the door of her majesty's bed-room was open, it was visible from the bed on which her majesty slept, and therefore the person sleeping in her majesty's bed, and the person sleeping in the one assigned to Bergami could see each other in bed, and had free communication by conversation, the only access to these apartments being that single door which I have stated remained, the other being closed. It is obvious, therefore, to your lordships, that the only access to her majesty's bed-room was through the room in which Bergami himself slept; the consequence of which was, that when the access to his room was closed, there was no mode of getting to her majesty's bed-room. That arrangement took place during the voyage to Tunis, and it will appear to your lordships in evidence, that at night the door of the eating cabin, in which I have stated to your lordships Bergami slept after this alteration, was constantly shut after they had retired to rest; and then, as I have

stated, the princess's cabin had no other entrance than that which led through that cabin in which Bergami slept. Here again, this is only a continuation of that uniform, I had almost said constant, continual arrangement, which took place wherever she went, whether by land or by sea, of having the bed-room of Bergami as near as possible to her own, and having her own sleeping apartment and that of Bergami so contiguous that they were shut out from all communication from the other parts of the suite; and your lordships will find, upon the present occasion, that his room not only was contiguous to that in which the princess slept, but that the beds themselves were placed in such a situation that her room could not be opened when Bergami was retired to rest, without her seeing him in bed, and he seeing her majesty in bed. Why, my lords, do these arrangements take place? It is impossible for me, or I think for your lordships, to assign any other reason than that I have given for this arrangement. Why is this Bergami to be selected to sleep so near her majesty? Why is it that the arrangement is constantly made by which the female attendants who were near her were removed? Why this care taken to prevent this communication with her room at night except through Bergami's room? It would be difficult indeed, to account for it, except from the other circumstances of the case, which develope that which it would be otherwise utterly impossible to understand, and leave no doubt as to the nature of the familiarities and criminal intercourse which at that time existed between them.

My lords; her majesty sailed in this polacre; at first she went to Tunis; from Tunis she visited Utica. At Utica there were but few apartments; there were only two bed-rooms in the house in which she slept, in one of which rooms, her majesty slept with the little Victorine, and in the other the countess Oldi and the two filles-de-chambre slept, the rest of the suite sleeping at the house of the consul resident there. My lords, it will appear to your lordships, that in the morning after the night on which she slept there, Bergami came very early to her majesty's apartment, and long before her majesty had risen from her bed. Here, as at other places, Bergami's access to her majesty's room was without any restraint: he entered without any notice; he passed into her majesty's bed-room, she being at that time in bed, and there he remained a considerable time. My lords, it may be asked here again, for what purpose was this visit? how is it that before her majesty has risen she requires the attendances of Bergami, or for what purpose is this visit paid? I say, that, but for the intercourse that existed between them, there is no female of any rank in society, either here or abroad, who would, at that early hour in the morning, before she had risen from her bed, admit without ceremony a person who undoubtedly at that time had been raised by her to the rank of chamberlain, had been decorated with the order of the knighthood of Malta, and had had conferred upon him the title of baron: but, I say, these titles, or these dignities, or this advancement, did not furnish a reason why this person alone is to be admitted to her bed-room when there was no necessity for his attendance—but such was the case. My lords, perhaps your lordships will think I am fatiguing your lordships when I am enumerating these facts; but when you find that this was the continued habit of intercourse between those persons, your lordships will see how material they are to lead to the conclusion, not from these facts alone, but added to the other facts in the case to which I am endeavouring to lead your lordships, that this licentious and adulterous intercourse was at this time continued between them.

My lords; another fact occurred upon this tour: her majesty visited a place called Savona. Here again facts occurred which can leave no doubt upon your lordships mind, if proved, that an adulterous intercourse took place at Savona between her majesty and Bergami. At Savona the room assigned to Bergami for sleeping was a room immediately outside that of her majesty's, through which she must pass to arrive at her own room.—

Lord Chancellor.—What is the date of this?

Mr. Attorney-General.—The 12th of April, my lord. She was at Utica on the 8th of April, in the year 1816. Savona is in Africa, near Tunis. I may have mistaken the name: it is either pronounced Savoan or Savona. I have it Savona. She visited that place on the 12th of April, 1816. I was stating to your lord-

ships, that a bed-room was assigned to her majesty; immediately outside that bed-room was the room appropriated for Bergami, in that room appropriated for him there was no bed, but in the princess's room there was a large bed.—My lords, as I have stated to your lordships, the access was through that room appropriated to Bergami, in which there was no accommodation for his sleeping; and it will appear to your lordships upon the morning after they had so slept there, that her majesty's bed appeared to have been occupied by two persons. Bergami was the only person who had immediate access to that room, as I have stated to your lordships—the only communication was through that room appropriated to him—in that room there was no bed—in her majesty's room, there was a bed of a large size—that bed evidently showed upon the following morning, that her majesty had not reposed in it alone, but that two persons had slept there. In any ordinary case, I say, that fact alone would be sufficient to decide any person who had to decide upon it, that adultery had been committed that night. If you find that a man has access, and the only person who has access to the bed-room of a female; if you find that the bed of that female shows in the morning marks of two persons having slept in it, I say not only this is a presumption, an inference, but the natural conclusion that an adulterous intercourse took place between them. Such was the case at the place I have mentioned to your lordships; and when you find this communication in the manner I have stated from time to time—when you find rooms appropriated in the way I have stated, and this familiar intercourse kept up, no man can doubt, although you have not the evidence at each particular place, yet no man can doubt, that there was a continued intercourse between these persons of the description I have mentioned. My lords, from Africa her majesty sailed to Athens, stopping at Malta, I believe for a day. She arrived at Athens on the 22nd of April, 1816. My lords, after having visited some of the Grecian Islands and Athens, she proceeded to Constantinople, and afterwards visited, I believe, Troy, and from thence she went to Ephesus. I will state to your lordships a fact which occurred at Athens, to show the degree of familiarity which existed between her majesty and Bergami, and to show that which undoubtedly would be the necessary effect of that intercourse between them—the little respect and attention, I mean in the way of distance, which even a chamberlain or a baron would show to a princess he was serving. I will mention a fact that will satisfy your lordships of the great familiarity which existed between her majesty and Bergami at Athens. Her majesty was visited by the captain of an English vessel which touched there, and who thought it is duty to pay to the princess of Wales that respect which he, as a captain in his majesty's navy, ought to pay. He landed, and called upon her. He was introduced through the garden to an alcove, in which he found her majesty, Bergami, and the countess Oldi, sitting; Bergami being dressed at that time in a sort of hussar dress, with a cap, which the officer describes as a foraging-cap upon his head, sitting with great ease and familiarity near her majesty. Upon this officer being introduced, her majesty, with that politeness which distinguishes of course all persons of high rank, rose to receive him, requested him to sit down, and had some conversation with him. Bergami, without the slightest respect towards her majesty or this individual, rose—without paying the accustomed mark of respect which officers of distinction of all sorts ought to pay to those whom they are serving—without any expression to show the respect which he owed to her,—he got up as one of equal rank, and as if entitled to treat her as of equal rank with himself—he got up and retired without the slightest mark of respect from the alcove in which he was sitting. I mention this to show the degree of familiarity which existed between them—the assumption which this man naturally took in consequence of the familiarity of manners which he thought himself at liberty to assume, considering himself of equal rank with her majesty, and entitled to assume dominion over persons serving her majesty. Undoubtedly your lordships or any jury would not infer from that fact alone any thing; but, when coupled with the other facts of the case, it speaks volumes: it shows what was passing in this man's mind at the time, that he thought her majesty had reduced herself to a level with him, and that he was entitled to pay her no more respect than any other individual with whom this intercourse had taken place.

My lords; I have stated that from Athens, after visiting Constantinople, her majesty went to Ephesus, and there again

another circumstance took place, which affords decisive evidence of that intercourse which was carrying on between them. Her majesty when at Ephesus directed that a bed should be placed for her under a vestibule, in front of a small church, or the ruins of a church, which was surrounded with trees: her dinner had been provided for her, and was intended to be carried to the room which had been prepared on that occasion; but she having retired to that vestibule for repose, the weather being extremely hot, Bergami was seen coming from that vestibule, after her majesty had retired there, and when no other person was supposed to have been there; and the dinner prepared for her majesty and intended to be served up in another room, was ordered to be carried there for herself and Bergami alone; and it will appear, that her dinner was served up in that room, her majesty sitting upon a small travelling bed which she carried with her, and Bergami sitting near her on the ground; and in that room Bergami remained alone for a long time, no person being permitted to have access to this room. Again, I ask your lordships, why is this? why is Bergami the only person to be selected to retire with her majesty to her bed-room and there partake of her dinner, and afterwards to be left alone there during this period of time? Can you divine any reason for this, except what I have stated to your lordships? My lords, in the course of that visit to Ephesus they proceeded to another place called Aum; and, my lords, here a still more striking circumstance took place between her majesty and Bergami. They had a tent erected for her majesty's accommodation, and her majesty had a bed placed in that tent, and, my lords, at that place she is seen in her bed undressed; Bergami, as it is described by the witness, in his shirt sleeves almost undressed sitting upon her bed, and he remains in that tent in that dress for a very considerable time, and he is afterwards seen coming from that tent where her majesty was in bed, in the dishabille I have described to your lordships; and this, my lords, by day. I ask your lordships again, if her majesty wanted some attendance—if some attendance was requisite upon this occasion—how is it that her lady of honour, the countess of Oldi, or some of her maids of honour, are not selected to be with her? No such thing! Bergami, and Bergami alone, is selected to be with her majesty, in a dress that was unbecoming in him to be present before her in, and he is selected for that situation when she is undressed and in bed, and he remains for a very considerable time in that situation in that dress. I shall be told, "this is strong suspicion, but your case should go further than that to prove an adulterous intercourse." I say, that in an ordinary case this alone would be sufficient to prove the fact of criminal conversation; but this is a continuation of the conduct I have been describing to your lordships: it marks the connexion between these parties, and that a guilty intercourse was continually taking place between them upon this occasion. A man who can so familiarly enter the room of a female when that female is in bed, he himself in a dishabille—I say, there is no woman who would admit a man to such a liberty who had not granted him the last liberty that can be granted by a woman,—I say, that is the inference which your lordships must draw, and which you will draw, when you consider, that one of these persons was a princess, and the other a courier advanced to the station he then enjoyed, by her.

My lords; they afterwards proceeded to Jerusalem; and there her majesty, not satisfied with the honours she had procured for her favourite—the knighthood of Malta, and the barony della Franchina—not only procures but created orders to confer upon him—she procured for him at Jerusalem the order of St. Sepulchre, a Catholic order which she obtained at that place, and she herself upon that occasion instituted an order of her own, the order of St. Caroline, and after conferring the knighthood of that order of St. Caroline upon several of her domestics, she makes Bergami the grand master of that order! [A laugh] My lords, I am very well aware this cannot but excite a smile on your lordships; but it marks most strongly, the degradation which her majesty had sustained, and that disgraceful connexion which still existed between them. Why is this man selected? I ask your lordships why it is that in a situation of this sort, her majesty selects him to be grand master of this order which she had instituted? I say it is impossible for any one to hear these facts, and not to be satisfied in his own mind, that it proceeded only from that attachment which had laid hold of her majesty, which alone had been the cause of her degrading herself in the way I have stated. You have this

courier from time to time made, first knight of Malta, then knight of St. Sepulchre, grand master of the order of St. Caroline, and baron della Franchina!—If, my lords, what I have already stated to your lordships cannot but have excited the most painful and distressing feelings in your lordships minds—if, my lords, any doubt at present remains, supposing the facts I have stated to exist, upon the nature of the intercourse between her majesty and Bergami, the facts I am about to state to your lordships will, I think, remove all doubt from your minds. Her majesty embarked on board the polacre, which I have told your lordships she hired for the purpose of this voyage, and which was called the Royal Charlotte, upon her hiring it—she embarked at Jaffa on her return to Italy. The weather being at that time excessively hot, she found it inconvenient, after a short period, to sleep in the cabin which she had previously occupied on board, and she directed that a tent should be raised for her upon the deck, in order that she might sleep in that tent; and the directions were obeyed. Not only was a sofa or a bed placed for her majesty, but close to that, without any partition, under the very same tent, a bed for Bergami. My lords, in that tent slept her majesty and Bergami from that time, I believe without intermission, until her arrival in Italy. The lower part of that tent by day was raised round to admit the air, but at night it was closed down: when her majesty and Bergami retired to that apartment, which they usually did at the same time, and by themselves, the tent was let down to exclude the observation of the crew, or the other persons of her suite, and she and Bergami remained in that tent night after night, as I have stated to your lordships: the bed of her majesty and that of Bergami being placed close to each other, and without any separation. Not only did this occur at night, but frequently in the course of the day after dinner her majesty retired to this tent with Bergami, and upon those occasions the canvas was let down, in order to exclude the observation of the crew or the passengers.—My lords, this took place, as I have stated to your lordships, without intermission, during the voyage from Jaffa to Italy. Can your lordships have stronger or more decisive evidence, though I may not have conveyed my account intelligibly? Her majesty embarked at Jaffa, sailed from thence, and arrived afterwards at Syracuse, and landed at Terracina. She arrived in Italy in the month of September 1816. My lords, I say this fact alone, I apprehend, is not only presumptive, but conclusive evidence of that which your lordships are to be satisfied of, upon that part of the preamble, namely, an adulterous intercourse between Bergami and her royal highness. Was it ever heard of, that a female should, night after night, receive into her chamber a man to sleep there, the beds close to each other, and this continued for a long period of time—I ask your lordships, was it ever heard of, that such an intercourse took place, without its leading to the inevitable conclusion, in the mind of every one, that it was for the purpose of that connection, which I say this affords decisive evidence of, on the part of these persons? But if you find, accompanied with this, that during her majesty's being on board this ship, they are seen caressing each other by day—that she is seen by persons on board the ship, sitting on Bergami's knee—that they are seen embracing each other in this situation—no man can doubt what conclusion he is to draw from the circumstance of their being shut up for hours together in that bed-room, nobody else having access to it, and more particularly when female delicacy would have prompted her to exclude every person from that bed-room, except her female attendants. And yet he alone is selected to remain in this tent, to sleep there, and does actually sleep there, close to her majesty during this voyage.

My lords; not only did these circumstances take place during this voyage, but she seems to have actually thrown off all restraint and reserve, that could be observed by her. A bath, more than once, is prepared for her in this vessel, and Bergami is the person to accompany her to that bath; he is the only person that remains with her whilst she is bathing: and, after that fact, will your lordships doubt, that if a woman has so far thrown off her virtue and delicacy, as to admit a man to be present on such an occasion—when you find him sleeping in her room, however some persons may be so sceptical as to think they might sleep together without any improper intercourse taking place between them—when you find this female, acting in this way—when you find this man accompanying her at the time she is bathing—there is no man, after these facts, can doubt that during

that period that intercourse had taken place which would alone make a woman so far forget herself as to expose herself to these familiarities and indecencies—that this is the only circumstance which could enable a woman to endure the presence of a man upon such an occasion—that nothing but such an intercourse could have induced any woman to admit a man to approach her person in the way Bergami is permitted to do.—Upon this voyage it happened that they were on board the ship on the 24th of August, which was St. Bartholomew's day, and the name of Bergami happening to be Bartolomeo, there are great festivities on board the ship, in honour of her majesty and Bergami. The crew are regaled, and in their carousals, they drink the health of her majesty and the chevalier Bergami, whose birth-day, or rather the day of St. Bartholomew, was kept on that occasion. I ask your lordships what inference is to be drawn from this circumstance? None. But when you couple this with all the facts of the case, no man can doubt that all these honours were conferred in consequence of the disgraceful and licentious intercourse which at that time existed between these persons. Whilst I am upon this circumstance of the fête or festivity of the 24th of August, I should mention, that your lordships will find that in the preceding year (a fact I had omitted to state) the same thing had taken place at the Villa d'Este in August 1815, that there were festivities in honour of the courier Bergami.

I should apprehend that the facts I have stated to have taken place on board the polacre, would, of themselves, be decisive evidence of the whole preamble of this Bill. My lords; I do not, upon this part of the case, consume your lordships time by entering into a minute detail of the various familiarities observed on board this vessel, the degradation to which her majesty submitted, in her intercourse with this courier, her occupations and indecent exhibitions on board that ship, because I know very well, in this opening of mine, I ought rather to lead your lordships minds to the general nature of the case, and the strong facts to be proved in evidence, than to detain your lordships by a minute detail of those circumstances which your lordships will hear from the evidence, and which you had better hear from them than compel me to narrate—but your lordships will find, during the whole of this voyage the intercourse was of the most licentious description, and that she demeaned herself by doing the most menial offices towards him that was possible, herself occasionally mending his clothes, and doing various other acts which I will not detail to your lordships, because when detailed in evidence they will satisfy your lordships that, although not decisive evidence of guilt, yet when connected with the other facts of the case, they all demonstrate the nature of the intercourse which was taking place between them, and the degradation to which her majesty had submitted.—My lords, upon her arrival in Italy, in September 1816, her majesty proceeded to the Villa d'Este, a house she had occupied upon the Lake of Como, previous to her departure; and your lordships will find that upon her arrival at the Villa d'Este, Louis, the brother of Bergami, was advanced by her majesty to the situation of prefect of the palace. He had before, as was usual with the suite, as well as the mother of Bergami, dined at a separate table from her majesty—they had dined with Faustina, the other sister, and her husband, who were also admitted, and a cousin of Bergami, who was admitted and made comptroller of the household: but soon after their return, the mother of Bergami, who before that time had been called "the grand-mother," not only by the suite, but by her majesty, is ordered to be called by the name of Madame Livia. She and Louis, Faustina and the husband, were now at a separate table from the rest of the servants.

My lords; during her majesty's absence from Italy, a theatre had been built at the Villa d'Este. After the facts I have related to your lordships, I will not detain you with any long narrative of her majesty's performances in this theatre, where she performed generally with Bergami, she in some character, and Bergami in another; sometimes appearing in the most low character of a servant; at other times in other characters, Bergami usually acting in the theatre with her. Your lordships will see this circumstance is only one of many others I have stated, of the degree of familiarity with which her majesty treated her servants, a degree of levity incompatible, as it appears to me, with the dignity of a princess. But, however, at the Villa d'Este, her majesty did occasionally perform there; Bergami acting

the part of a lover, and her majesty the person upon whom his attentions were bestowed. During her residence after she had returned to the Villa d'Este, her majesty took a tour to Lugano and other places; and I wish to mention here a fact that occurred at the Villa d'Este, showing the intercourse kept up between her majesty and Bergami. It happened, my lords, that one day a courier was dispatched with a letter to a person at Milan, and he returned with an answer which was to be given to Bergami. The courier returned at a late hour of the night, or rather early in the morning, when most of the family, or all indeed, were retired to rest; and thinking it his duty to deliver the answer to Bergami, as soon as he had brought it back, he went to his room for that purpose: upon going to his bed-room he found that Bergami was not there, but in a short time he saw him coming in his shirt, and his robe-de-chambre, out of the princess's room. My Lords, one would ask how it was that Bergami, at this hour, when all the rest of the family were retired to rest, and when it would naturally have been expected he was in his bed—how it was, that at this hour he is seen in this undress, coming from the room, in which her majesty, the then princess, slept? My lords, he was observed, and of course spoken to by the courier who had brought back the answer: that courier had been but a short time in the service of her majesty. Bergami was therefore desirous of making some excuse for this undoubtedly apparent impropriety, and he stated that he had heard his child cry; and upon the following morning, he desired the courier to say nothing of what he had observed, as it was an accidental circumstance. But the fact struck the man as it would any person, who had seen such a circumstance—the inference was plain—here was Bergami coming out in this undress from her majesty's room at a period when the other members of the household had retired to rest—the rooms of her majesty and of Bergami, as I have stated, being separated from the rest of the suite, and of easy communication from the one to the other. I ask, how can you account for that fact, but that he had been visiting her majesty at that time, with a view to that intercourse that had taken place between them? This fact alone, in an ordinary case, would be enough to satisfy any jury of an improper intercourse between the female and the man, under the circumstances. You can account for it in no other way. There is no reason for a man visiting the bed-room of a woman at that hour of the night, unless some reason could be given, which does not exist here. No other reason can be given for it, but that which I have stated, namely, that intercourse which was going on; and it is from these repeated instances, your lordships will be led to the conclusion, that there was this adulterous intercourse taking place between her majesty and Bergami.

After her majesty had been a short time at the Villa d'Este, she visited a place which had been purchased (a fact I beg your lordships attention to) for Bergami, a place called by the name of the Barona, the Villa Bergami. In addition to these honours conferred upon him, this courier, who entered her majesty's service in the lowest state of poverty,—this man, by the year 1816, is not only covered with these orders and dignities, but has purchased for him a very considerable estate in the neighbourhood of Milan, a place called the Villa Bergami, or Barona—a purchase to the amount of several thousand pounds, purchased for him for his residence near Milan between the period I have stated. How does he acquire this property? By the same means that he had obtained his titles—through the means of this most bountiful princess; who, not satisfied with conferring on him honours, added to them estates. These circumstances must be accounted for. People do not in general act without reason, and without motive. What reason was there for this conduct, but that which I have stated as the only motive and reason—this adulterous intercourse which took place between them? Had there been any thing in his conduct which called for these honours—any thing but this disgusting intercourse which could have operated upon her majesty's mind?—Your lordships will find upon her going to this place, where she remained some time, at the Barona, as it is called, and during the carnival there, the most disgraceful scenes took place in this house—scenes which I would rather leave to the witnesses to describe to your lordships, than shock your lordships by detailing them—scenes, which if fully proved before your lordships, will, I believe, satisfy you, that this house, the Barona, deserved the name of a brothel, more than a palace, or a place fit for the

reception of her majesty, or a person of the least virtue or delicacy. Balls were given there, not attended by the rank and nobility of the neighbourhood—not by persons who, if her majesty had kept up her dignity, would have been proud of the honour of her countenance, but by persons of the lowest description, and the greatest licentiousness prevailed in this house during the carnival—licentiousness which I would not state as an imputation upon her majesty, unless I was satisfied in my conscience, I should be able to prove it passed with her knowledge; because it would be said by those who defend her majesty, "if the fact were so, if it took place in the kitchens, or the lower apartments of the servants remote from her, they ought not to affect her majesty in any degree:" but I understand, and believe it will be proved, that they passed under her eye and her observation, and that, so far from expressing any disapprobation, she appeared pleased at what was going forward, rather than express any dissatisfaction or disgust at it.—Your lordships may say, "true, it may be that she has demeaned herself in a manner highly unbecoming a princess, but this alone is not sufficient to prove the adulterous intercourse you charge between her majesty and Bergami:" but, when we prove these facts to exist at the time these familiarities were going on between them, these facts show to your lordships, and must show, that this licentious intercourse was continuing, and had so far operated upon her majesty's mind, as to make her wholly regardless of that character, which she ought to support towards her domestics; and when you find her engaged in these scenes, you will conclude that this was the certain result of such an intercourse as existed between her and Bergami, and can only be accounted for in that way.

After her majesty had been at the Barona, she, in the month of February 1817, made a tour through the Tyrol into Germany. And, my lords, a remarkable circumstance took place almost at the commencement of that tour,—a fact again which of itself will prove to your lordships that an adulterous intercourse was taking place between them. It happened on their arrival at a place called Charnitz, that it was necessary Bergami should return to Inspruck for a passport to continue this journey, and he was absent at the time her majesty retired to rest; and as he had not returned she had to sleep in her room that night with one of her filles-de-chambre: it happened that Bergami returned with his passport in the middle of the night. What would have been the conduct of a person who had gone upon such a mission, and returned to the suite of the person he was serving on that occasion? You would suppose he would retire to his own bed to rest; but, no; he comes into her majesty's room, her female attendant being asleep—he comes into that room, and her majesty upon his coming in, orders her female attendant to get up and retire from the room, leaving Bergami with her. Upon that occasion her female attendant was ordered to get up from her bed, to take her bed out of the room, and retire to another room for the rest of the night, and Bergami is left alone with her majesty. Why is all this? what reason was there for it? I ask whether that fact would not in an ordinary case be conclusive evidence of an improper intercourse taking place between them? and if it could in an ordinary case, it is still stronger in a case like this; because, when a man is treated as this man was upon such an occasion, I say her majesty conducting herself in this way is stronger evidence of the fact taking place between them. The female attendant retires, and the man remains. This fact alone, if proved satisfactorily, must convince your lordships minds, independently of any of the other facts, that an adulterous intercourse took place between them.

But, my lords, that is not all. In the course of this journey her majesty proceeded to Munich, and afterwards to Carlsruhe in Germany, where she remained eight or nine days. At Carlsruhe similar arrangements were made with respect to the bed-rooms: there was a bed-room called No. 10, appropriated to her majesty, No. 11 was used as an eating-room or passage; and No. 12 was appropriated to Bergami; the doors opening from No. 10 and No. 12 were opposite to each other, so that by passing through the center room you pass from the room in which her majesty slept to the other in which Bergami slept, or *vice versâ*, by passing through that room you went from Bergami's to the room in which her majesty slept. Whilst at Carlsruhe, her majesty is found one day sitting on Bergami's bed, he being in bed, with Bergami's arm round her neck. She is surprised in this situation by one of the

chamber-maids at the inn, who was going to carry some water to the room; she found her sitting there, he being in bed and undressed with his arm round her majesty's neck. Would such familiarity take place between persons of this description, without that intercourse to which I am so often obliged to call your lordships attention? In that bed afterwards is found a cloak belonging to her majesty, which her majesty is afterwards seen wearing; in Bergami's bed is found that cloak which her majesty is afterwards seen wearing; and in that bed are also observed marks by the servant of the inn, which can leave no doubt upon your lordships minds —which, without attempting to explain, your lordships will be led to the inference of what I am wishing your lordships to understand. Those marks, that cloak in the bed, and her majesty being sitting there—I ask, whether your lordships can have any doubt that an adulterous intercourse took place between her majesty and Bergami? I say, my lords, again, that fact alone would be sufficient proof, in any ordinary case, of the adulterous intercourse taking place. Here if your lordships should be satisfied, you will have all the other parts of the case showing these facts and the acts committed, proving a continued intercourse between them of the nature I have been describing; and when once proved, it explains the whole of the circumstances in this case—all those circumstances which are otherwise enveloped in mystery—the honours conferred upon Bergami—the estate bought for him—and the other circumstances. This fact at Carlsruhe, the circumstances which took place on board the polacre and at Charnetz, and a number of other circumstances of the kind which I need not enumerate, if they shall be given in evidence, satisfactorily before your lordships, as I believe they will be, will prove conclusively the case set out in the bill now before your lordships, not only of licentious and disgusting familiarities, but of the adulterous intercourse which actually took place. My lords, from Carlsruhe her majesty visited—

Lord Chancellor.—What is the date of that?

Mr. Attorney General.—In the early part of 1817; January or February 1817.

Earl *Grosvenor.*—What is the date of the carnival?

Mr. Attorney General.—The latter end of the year 1816, or the beginning of 1817. She set out on her tour to the Tyrol in February 1817; so that her arrival at Carlsruhe was, I believe, about the latter end of February or the beginning of March 1817. My lords, her majesty visited Vienna, where she remained a short time. She then proceeded to Trieste: a two-wheeled carriage was purchased by Bergami, in which he and the princess frequently travelled alone, she having previously travelled along with the little Victorine; the countess Oldi also travelled with her, but another carriage was now purchased by Bergami, which was sufficient to contain only two persons, and in which he and the princess usually travelled alone. At Trieste they remained a few days; and there again observations were made by persons at the inn, upon the state of her majesty's bed and bed-room. There again, as at all the other places (for I fear I tire your lordships by repeating it), an arrangement was made for Bergami's bedroom to be near to her majesty's, communicating with it. In her majesty's bedroom in this place was her small travelling bed, and a large bed capable of containing two persons. This was in the month of March 1817. I think I have stated to your lordships, that there was a small bed and a large bed, and Bergami had one room appropriated near to her majesty, and observations were made upon the state of those beds; and it will appear to your lordships, that there were frequently the appearances of two persons having slept in her majesty's room, and at the same time it appeared that Bergami or any other person had not slept in the room appropriated to him. It was observed, moreover, that there were wash-hand basons for two persons in her majesty's room, and other utensils that appeared to be used by two persons when the servants went to arrange these rooms: but the strong fact that was observed at Trieste was observed elsewhere, not only that the rooms had free communication with each other, but that there were the appearances in her majesty's room of two persons having slept together in the bed in that room, and in Bergami's room where he ought to have slept, there was the appearance of no one having slept; and he was the only person who, from the arrangement of the room, could have access to sleep there. No other person had any communication with or ventured

to approach her majesty's room without that notice which persons were bound to give; and under these circumstances I apprehend your lordships will feel very little doubt, that the two persons who slept there were Bergami and her majesty, not only from the state of the room, but the observations made of the state of the bed.

My lords; in the course of that journey her majesty and Bergami were observed frequently, when they had occasion to stop at an inn to change horses, to retire to rest themselves—to repose themselves together upon the same bed: they would go into the same bed-room, and throw themselves upon the same bed, and there remain during the period, either that the horses were changing or any other delay that took place. That was observed upon more than one occasion during that journey. It may be said, there is no conclusion of guilt to be drawn from the circumstance of Bergami and her majesty reposing upon the same bed. Of itself it proves nothing; but when united with the other circumstances, would not you concludenecessarily that an adulterous intercourse took place? But if you find that he is the only person admitted to these familiarities—that no other person ventures to approach her in this way—that this is done in the most familiar way on her part—it naturally leads to the conclusion, that this intercourse was taking place between them; and when you find the other circumstances and the inference to be drawn from those other circumstances, is not that the natural consequence of that familiarity daily taking place between them? The princess of Wales wishing to retire for repose in the course of a journey, would it not be natural that her lady of honour, the countess of Oldi, should attend upon her, or at least one of her female attendants? But Bergami, and Bergami alone, is the person selected. How can he venture to use those familiarities towards her majesty, but for this reason, that an adulterous intercourse was continuing between them? They visited Venice upon this occasion, and I believe returned for a short time to Milan to the Barona, and upon their return to the Barona upon this occasion, Bergami's mother and brother Louis, who had previously executed some of the most menial offices, were permitted to dine at her table with herself and Bergami; and from that time you will find that Bergami's mother and brother were admitted to the table and eat with her and Bergami. Here again it may be said, this of itself, though it marks great condescension on the part of her majesty, surely ought not to affect a person of her high rank and dignity—they prove nothing at all, but a desire on her part to show attention to these persons, Bergami's mother and brother Louis. I say it is a little singular that it is only this family that is so signalized by her majesty with these marks of condescension — that they are the persons daily gathering about her, until at last they compose the greater part of her suite—I say it is a little singular that this mother of Bergami, who filled an under station in this family, should be so suddenly exalted. It may be said, it was out of the great affection which her majesty conceived Bergami had for his parent: but the little Victorine, whom I have mentioned, is from time to time taken the greatest notice of; she is dignified with the title of "princess," a title which I find her majesty, although that does not mark any thing as applicable to Bergami, has also conferred upon the boy William Austin, who is called a prince throughout the whole of the journey, as well as the daughter of Bergami. After her majesty had been a short time at the Barona, she visited the Villa d'Este, and afterwards returned to Rome, and was a short time at a house which had belonged to one of the Buonapartés, a place called Ruffinelli, and she afterwards was at another house near Rome, called the Villa Brande. My lords, during her residence at Rupinelli, her majesty is seen in Bergami's bedroom; but at the Villa Brande your lordships will find a more important circumstance as affecting this inquiry. My lords, at the Villa Brande, Bergami's apartment was very near her majesty's, and there was a door of free communication between the room in which she slept through another or corridor into her majesty's, and he was there observed by one of the servants, upon more than one occasion, two or three times, at a very early hour in the morning, going from his own room undressed to the princess's room, entering that room, and there remaining with her majesty—

Mr. *Brougham.*—Will you favour me with the date of that?

Mr. Attorney-General.— About July 1817. Your lordships will have improved

to you upon two or three occasions this was observed—that at a very early hour in the morning, when the rest of the family had retired, Bergami is seen coming from his sleeping apartment and going to her majesty's apartment, entering that room and there remaining with her majesty. Why, my lords, I ask your lordships what does this fact prove? Can your lordships doubt the motive for a man going in that way, at an early hour in the morning when her majesty was in bed to her room and there remaining? Do your lordships require any further evidence of the adulterous intercourse between these parties? Would it, I ask, in any ordinary case, my lords, be attended with the least hesitation on the mind of any persons who had to decide upon the question, where a man goes from his own room, a servant, at the dead hour of night or early in the morning, entering into the room in which his mistress is supposed to be alone, and there remaining with that person from that time, and not seen to come out of that room again—I ask whether there could be any doubt existing upon the mind of any person who had to decide upon the question, that during that period a criminal intercourse took place between these parties? I apprehend certainly not; and more particularly when you find this is not a solitary instance, but that it occurs two or three times during her residence at the Villa Brande. At this place, too, Bergami, as upon other occasions, was admitted to her majesty when she was dressing at her toilet, when she was in a state of dishabille, when she ought to have admitted no male person there: he is admitted upon all occasions, without notice and without reserve, and allowed to be present there during the time her majesty is dressing, and, in addition to this, your lordships will find the facts I have before stated to occur at this place, namely, visiting her room in the manner described, several times during her residence there, and that the arrangement was made there which had taken place at almost all the other places, affording a facility of communication between her room and that of Bergami.

I believe from the Villa Brande her majesty went, in the month of August, to Pesaro, where from that period she took up her permanent residence, or almost entirely resided at a villa near Pesaro, and upon her going there the same arrangement took place with respect to the rooms—the princess chose rooms for herself and Bergami separate and apart from the rest of the suite, and having communication with each other, and the same intercourse was continued there which had taken place at almost every place she had visited. And wherever she took up her residence, so attached did she appear to the person and society of Bergami, that his absence always seemed to occasion considerable depression on the part of her majesty, and the greatest anxiety for his return; and when he occasionally visited, as he did, the house at Milan which was purchased for him, you will find, more particularly on one occasion the greatest anxiety expressed for his return, and, that upon the day he is expected she sets out in order to meet him, and being disappointed on that occasion she sets out on the following day, and the greatest joy was expressed on his return; at the meeting all that fondness and attachment appeared between them which might be expected to exist between two persons between whom such an intercourse as that I have explained took place.

Lord Chancellor.—Have the goodness to mention the date of each particular transaction. It will be a great relief to the House.

Mr. Attorney-General.—I do not know whether it is the wish of your lordships that I should specify each particular fact which I have stated as I have gone along.

Lord Chancellor.—Go on, do not go back.

Mr. Attorney-General.—My lords, her arrival at D'Este was on the 11th of April 1817, at Ruffinelli about the 29th of June in that year, and at the Villa Brande within a few days of her arrival at Ruffinelli, which would be early in the year 1817. She was at the same place in April, and in May; she was at the Barona, January 1817; she quitted that residence, on the 27th of February for her tour into Germany by the Tyrol, and she returned to the same place for a short time in the following month of April, and went from there to Rome, and afterwards to Ruffinelli in the month of June, and continued there till the July of that year, and from thence went to Pesaro, where she arrived about the 9th of August 1817. At Pesaro, as I have stated to your lordships, her majesty resided from that period until her departure for this country, except for a short time, when she visited France, and occasionally other places.

My lords; I have abstained in the course

of the narrative from going more into detail than was absolutely necessary.

Lord *Dundas*.—At what period was it that her majesty went to reside at Pesaro, and when did she leave it? for it may be of considerable importance to state that.

Mr. Attorney-General.—My lords, the fact to which I called your lordships attention of her majesty going to Pesaro was in the month of August 1817. My lords, I have abstained in this case from going through a variety of particulars, many of which will be produced in evidence. You will hear detailed what was the course of her majesty's conduct at the Villa d'Este. When she resided on the banks of the Lago di Como, it will be proved she was constantly in the habit of going out alone with Bergami in a sort of carriage which was so constructed as to be only large enough for one person to sit down in, and consequently one must sit upon the lap of the other. In this carriage it will be proved that she used to go out with Bergami, sitting in his lap, he having his arms round her neck for the purpose of driving. There also she is seen with him, as it will be proved before your lordships in evidence, upon the lake in a canoe, and upon one occasion bathing with Bergami in an open situation in the river Brescia. Upon other occasions they are seen by various persons during her majesty's residence at Como in most indecent situations, kissing each other; and many other familiarities will be proved to have taken place during her residence at Como by various witnesses, which I am sure your lordships will think it better for me to abstain from detailing. I shall therefore content myself with only calling your lordships attention to the circumstances generally, as showing the familiar intercourse that subsisted between her and Bergami.—My lords, upon the return of her majesty from the East, she brought in her train a man who, from the accounts given of him by the witnesses, appears to have been of the most brutal and depraved habits—a person called by the name of Mahomet, who at the Villa d'Este, as will be proved to your lordships, exhibited the greatest indecencies at various times in the presence of her majesty and Bergami. They were present at the time those exhibitions took place—exhibitions, my lords, which are too disgusting for me to do more than allude to; and it is with the greatest pain that I am compelled at all to advert to them; but the evidence of so many persons concurs in showing that those exhibitions did take place in the presence of her majesty, as will, I fear, leave no doubt upon your lordships minds of the fact—exhibitions of the most indecent attempts to imitate the sensual intercourse. These scenes were exhibited in the presence of her servants; but from the evidence with which I have been furnished it will be proved that they were exhibited more than once in the presence of her majesty and Bergami; and that she not only permitted those exhibitions to go on, but permitted this person, who deserves not the name of a man, to continue in her service. It may be said that these are circumstances highly disgusting, but which ought not to affect her majesty with that degradation which is to follow, provided the circumstances stated in the preamble of the bill be made out. But, my lords, it is not merely the diusgst which the detail of these exhibitions must excite. Do they not show a want of moral feeling on the part of those who performed them, or permitted them to be performed? Is not that woman who can demean and degrade herself by being present at such scenes, not only capable of sacrificing her virtue, but sacrificing it in the degrading manner I have stated? If the facts I have stated be proved with regard to what took place between her majesty and Bergami, they not only go to prove that part of the preamble of the bill which states the carrying on of an indecent and offensive familiarity, but afford the strongest confirmation of the other part of the case, namely, that of an adulterous intercourse having taken place between them.

Another circumstance I shall state which will not surprise your lordships; for it is the forerunner of such consequences, and clearly marks the ascendancy which this man had obtained over the mind of her majesty; I say, a circumstance occurred that your lordships will not be surprised at; for it always accompanies or follows such a vicious course. You will find, that when her majesty first went into Italy, she did that which became a protestant princess. She had divine service performed either in her own house, or attended the chapels in the place where she happened to be residing, where the worship was conducted in that mode, till Bergami entered into her service at Genoa; but from the time of his entering into her service at Genoa, I believe, it not only ceased, and she had no religious ceremo-

nies performed in her family, but she so far demeaned herself as to accompany this Bergami to Catholic places of worship, and used there to kneel by the side of Bergami. I say the abandonment of religious feeling, and of those religious rites which ought to be observed by persons in all circumstances, and especially where you find that she demeans herself so far as to accompany this man, is an act of familiarity disgusting and degrading in itself—but I cannot help thinking that this is a strong confirmation and corroboration of the other facts I have detailed to your lordships, and must satisfy your lordships that that disgraceful and illicit intercourse did take place between her majesty and Bergami on the various occasions I have stated.

Looking at the general nature of the case independent of the principal facts I have stated, let me ask your lordships if you can account for some of the facts that occur. They appear to me to defy all explanation: here is a man in the greatest poverty, never known by her majesty till received into her service: in a short month he is upon terms of the greatest familiarity, and not only is he upon those terms, but his family are surrounding her in every way; and when I state the family, let me call your lordships attention to the nature of her suite when she settles herself at Pesaro. Your lordships will find that there is Bergami, her grand chamberlain; there is his mother in her service filling no station in particular; his brother Louis advanced from a menial station; the sister the countess of Oldi advanced to a high station; another taken into her service, and dignified by the title of director of the palace; another relation of the name of Faustina; Martine is advanced to the office of house steward; together with the child of the name of Victorine: ten in number I think are received into her majesty's service and establishment, and are all surrounding her, and attending upon her person. I ask your lordships how you can account for this single fact, why this man should be decorated with honours and that he should have favours conferred upon him to the magnitude I have stated? I say, how can these facts be accounted for? It may be said, will your lordships from these facts draw an inference that an adulterous intercourse has been committed? No, my lords, taking the facts alone, I do not ask you to draw that inference; but when your lordships find, in addition to those circumstances, that familiarities are constantly taking place between them, and when you find that at place after place arrangements of the rooms made in order to facilitate access between them—coupled with the other acts to which I have alluded, her conduct on board the polacre, and her conduct at various places to which I have pointed your lordships attention, I say those facts of themselves would have been sufficient; but the other facts, if proved, cannot leave any doubt upon your lordships minds of the disgraceful and degrading intercourse that has taken place between her majesty and Bergami.

"But how are those facts to be proved?" is asked in a triumphant tone. We have heard general slander heaped upon foreign witnesses: it will be said, how will these facts be proved? It has been asked who are the persons that will be called? What are their stations in society? My lords, look at the case. Persons of high character and station to prove the circumstances I have stated cannot be called. The case does not admit of such proof. They are acts committed by her majesty, in the retirement of her house, and surrounded by her domestics. A case like the present can only be proved by persons who filled menial and domestic offices—who attended upon her person at inns, and who had the opportunity of observing the bed-rooms and the state of the beds—it is only by witnesses of this description that facts can be proved. Generally speaking in cases of criminal conversation, it is impossible to have any other description of witnesses but such persons as are about the house, or who are upon the spot where the facts take place. But it is said, "these are foreign witnesses"—look at her majesty's conduct—she dismisses all her English suite—she appears to be no longer an English princess—she surrounds herself with foreigners. Can those who advocate her cause consistently complain of us for calling foreign witnesses, Italians, when she herself has advanced an Italian to the highest situation in her service, and whose family she considers as deserving of the greatest attentions? Yet her majesty is to say, do not call Italian witnesses to prove these facts. Your lordships are told that Italian witnesses are not to be believed, because they are foreigners. What does this hold out to the public—"Go abroad and carry on what kind of conduct you please—do as you like

—commit the most flagrant acts—acts of the most disgusting and most disgraceful nature—you can never be convicted in a court of English judicature, because I tell you beforehand, if the facts rest on their testimony, they will not be believed; they are branded with perjury and infamy. Go to Italy, and carry on what scenes you please—you may be as guilty as the meanest and vilest wretch that ever trod the earth—do what you please—you cannot be found guilty of the charges, because foreign witnesses alone can depose to them—you are quite safe, because the answer to it is, they are foreign witnesses, and therefore wholly destitute of belief." Will such an argument be received by your lordships, in such a case as this? It is, I admit, your duty to scrutinize, to weigh, and to examine with all the care you can the testimony which shall be adduced at your lordships bar; but I conjure your lordships to dismiss from your minds any prejudice which may have been endeavoured to be raised against foreign witnesses. Let us as Englishmen feel and value the honour and integrity of our countrymen above all others; but do not let us say we are so perfect that all others beside are unworthy of credit. Let it be recollected, that if it is by foreign witnesses that this case is to be proved, it is occasioned by her majesty's own conduct —it is occasioned by her making herself Italian, and taking about her person attendants of that nation. I am sure she will not willingly traduce the character of a person the most confidential in her service—her honoured and favoured Bergami—by saying, "you are of a nation that are utterly unworthy of credit, and you ought never to have been received into my suite at all." It is from her majesty's conduct that this difficulty arises: it is from her conduct that the facts which I have stated to your lordships can alone be proved by persons of that description. —But, suppose your lordships condemnation to extend to Italians, are persons of all nations to be condemned in the same way? are persons who have no interest in this inquiry not to be credited because they happen to be foreigners? I am satisfied no prejudice of that kind will weigh with your lordships, and notwithstanding the adroitness with which it has been put by my learned friend, when addressing your lordships on another subject, I am sure it will not operate on your lordships minds. It was said, with a triumphant air by my learned friends, "we hope those persons whom you are going to call, are walking about in freedom; that they are under no control; that all those persons who are to give their testimony have liberty to go where they please," Would to God it could be so! but I only need call your lordships attention to some circumstances which have recently occurred, and ask, whether with safety to themselves they can have that loco-motion jestingly described by my learned friend, and which persons ought to have under those circumstances? It is not their fault that it is not so; and it is a disgrace to this country, that their situation is rendered at all hazardous. When once the manly English feelings are awakened, and the whole of the facts are before them in evidence, so as to enable them properly to judge of this case, I believe, notwithstanding the popular clamours, that all that feeling of irritation which has been excited will subside. It is upon the evidence alone that your lordships are to decide under the sacred obligations of honour; and I am satisfied that you will not be induced to prejudge the case, from any observations that may arise, from the situation in which many of the witnesses were placed, or from the services they performed whilst in her majesty's employ; still less that you will prejudge this case by coming to a conclusion that you cannot give credit to these witnesses. You must hear them —you must see how they comport themselves, and in what manner they give their evidence at your lordships bar. You will examine every circumstance accurately, that can tend to establish, or which may go to diminish, the credit of their testimony. I am satisfied, whether Catholic or Protestant, whatever departments they have filled, to whatever country they may belong—if your lordships are honestly and conscientiously satisfied that the facts I have detailed are true—I am satisfied, as every person in the country will be, that there is not one of your lordships, high in attainments, high in rank, high in honour, but will bring with him all the qualifications of a judge to this case; and according to the evidence, whether it tends to establish the innocence or to prove the guilt of the party interested—I am satisfied that your lordships will firmly, calmly, and impartially arrive at that conclusion which is consistent with the justice of the case.—My lords, I shall

now proceed to call the witnesses before your lordships, to establish the facts; and then that part of the duty which devolves upon me will be complete.

A considerable pause now ensued.

Lord *Erskine* observed, that it might be expedient to come immediately to an understanding, with regard to the situation of the witnesses, after they should have delivered their testimony. It might be material to the ends of justice that they should be placed in a station of security, and be forthcoming, if, on a subsequent occasion, their presence should be found necessary.

The *Lord Chancellor* said, that in accordance with the usual course of their proceedings, the witnesses might be questioned before their departure from the House as to where they were about to go. He agreed that they ought to be kept within call, and remain in attendance till the end of the cause; and therefore now moved, "That the witnseses do attend from day to day till further orders."

This motion was immediately carried.

Lord *King* expressed a wish that the House should distinctly understand in what situation the witnesses would be placed, and that it should be known whether, on their coming to that bar, they would be liable upon the evidence which they gave to an indictment for perjury. Their lordships were now proceeding in a legislative capacity, but the King's attorney-general was employed to conduct the case brought under their consideration. This, it appeared, was done upon an order of the House itself. Undoubtedly their lordships might commit a witness for falsehood or prevarication, for the term of their own sitting; but as it was not improbable that they might have to revise parts of this proceeding, it was desirable to learn whether the witnesses would be in the same predicament as in a court of record.

The *Lord Chancellor* said, that if the noble lord's question were put to his experience, he could make no answer; but on general principles he would state his opinion, that the witnesses might be prosecuted at law for perjury.

Lord *King* observed, that his doubt arose from the circumstance of their now sitting, not in their judicial, but in a legislative capacity.

The Earl of *Liverpool* remarked, that in his apprehension what might be done in the case of an impeachment might also be done upon this occasion.

Lord *King* was of opinion that this was a question of law, not of parliamentary privilege; but it might be doubted whether a prosecution could be commenced without the special order of the House.

Then *Teodoro Majoochi* was called in.

Before he came to the bar, her majesty arrived, and was received in the usual manner, all the lords standing. The witness was now arrived. On being placed at the bar, his name was called out aloud, and the moment her majesty saw him, she exclaimed "Theodore! no! no!" rose from her seat, and hastily retired from the House, followed by lady Anne Hamilton.

Nicholas Dorier Marchese di Spineto was sworn as interpreter in support of the bill.

Mr. *Brougham* asked, whether he appeared by any order of the House, or at the instance of the party promoting the present bill? He wished to ascertain this point, because upon the answer which he received would depend his right to introduce an interpreter on the part of her majesty.

The *Lord Chancellor* thought there could be no objection to inquiring of the interpreter himself by whom he had been engaged to offer himself to the House in that capacity.

Mr. *Brougham* then addressed the marchese Spineto, and asked, in whose employment he appeared there as an interpreter? — I received my instructions from Mr. Planta and Mr. Maule.

Mr. *Brougham.* — Do you mean Mr. Planta of the foreign office, and Mr. Maule, solicitor to the Treasury? — I do.

Mr. *Brougham.* — That, then, is quite a sufficient reason for my desiring to have a second interpreter sworn. Though it may not, strictly speaking, be necessary at this moment, it may be more convenient to swear him immediately.

Binetto Cohen was accordingly sworn as interpreter, on the Old Testament, on behalf of the Queen.

Mr. *Brougham* then stated, that the witness now called appearing by the name to come from Italy, and whom he therefore assumed to be a Catholic, was now about to be sworn at their lordships bar; now was therefore the time for him to urge any objection to the taking the oath. He desired, therefore, that he might be

asked whether he had undergone those preparations in this country, which he should prove by evidence were necessary to be undergone in his own country, before he could be sworn at all in any judicial proceedings; and without arguing the point, would leave it to their lordships decision.

The Counsel were informed, that there was no doubt, if the witness was sworn in the form that he thought necessary, to speak the truth before the House, and according to such forms as were observed in courts of justice, his evidence was receivable.

The Witness was then sworn, the oath being interpreted by the Marchese di Spineto.

Interpreter.—He swears he is here to tell the truth, and nothing else but the truth.

The witness was then examined as follows: by *Mr. Solicitor General*, through the interpretation of the marchese di Spineto.

Of what country are you a native? Of Pisterlango.

Is that in Italy? Yes; 12 miles distant from Lodi.

Do you know a person of the name of Pergami? Yes.

When did you first know him? In the service of marshal Pino.

At what time did you first know him? It was in the years 1813 and 1814 when I entered into the service of general Pino. I knew him because he was in the same service, in the same suite.

Mr. *Brougham.*—Do you understand English? Nothing.

Do you understand it when you hear it spoken? I do not understand it.

Mr. Solicitor General.—In what situation was Pergami serving under general Pino? As valet de chambre.

In what situation were you serving at that time under general Pino? Rider, or postillion, or courier.

Do you know in what situation Pergami at that time was in point of his finances? I know him too well, because I was lodging in the house of Pergami, where I had hired a room.

The question which is asked is, what situation he was in, in point of funds or finances, at the time when he was in the service of general Pino? He was more poor than rich.

Do you know what wages he at that time received? At that time he was receiving three livres of Milan per day.

Do you know whether he possessed any property except the wages which he so received? No.

What do you mean by no; that you do not know the fact, or that he did not possess any other property? I know nothing else, but that Pergami had but the three livres per day.

Did you leave the service of general Pino before Pergami left that service? I did.

Into whose service did you enter after you left the service of general Pino? I went to Vienna, and entered into the service of his excellency the duke of Rocca Romani.

Did you afterwards enter into any service in the city of Naples? I entered into the stable service of Murat.

Was Murat at that time king of Naples? He was.

While you were so serving in Naples under Murat, did you see Bartolomo Pergami? I did see him.

When was it that you saw him there for the first time? When was it you first saw Pergami at Naples, while you were serving at Naples? At the house of a courier, who was called Bastinelli.

At what time did you see him; what Year? In 1814.

About what time in that Year? Before Christmas.

Where was it you then saw him the first time? In a room.

Where? In Naples.

In whose house? In the house of her royal highness the princess of Wales.

In what situation was Pergami at that time? Courier, and, it was said, also equerry.

Recollect, as nearly as you can, the precise time when you entered into the service? In the beginning of 1815, after Christmas holidays.

Answer, with as much accuracy as you are able, how long it was after the time you had first seen Pergami at Naples? I recollect so much, that before Christmas holidays Pergami told me that he would have made me a present.

You have told us, that at the commencement of the year you entered into the service of the princess; you have also told us you saw Pergami at Naples before that time: How long was it before you entered into the service of the princess that you first saw Pergami at Naples? A fortnight after, fifteen or twenty days after.

In what situation in the princess's service did you enter? Servant, livery servant, or lacquey.

By a Lord.—Did you wear a livery? I did.

Mr. Solicitor General. When you entered the service, did Pergami dine with the rest of the servants? There were two tables.

At which of those two tables did he dine? At the table of the upper servants, with M. Sicard, maître d'hôtel: Hieronimus; a waiting maid of the dame d'honneur, but I do not remember the name, being an English name; the valet of Dr. Holland. I remember nobody else.

Did any other person divide the duty of Pergami about the person of the princess? M. Hieronimus sometimes.

Did they take that duty by turns? By turns, amongst the upper servants of her royal highness.

Did any of those persons who took it by turns to attend upon her royal highness attend out of his turn? In the morning, when they carried the tray for the dejeuné, many times Hieronimus performed this service.

Can you describe the relative situations of the sleeping-room of Pergami and that of the princess? I remember them.

Describe them? From the room of the princess to that of Pergami there was a small corridor and a cabinet, and immediately on the left there was the bed-room of Bartolomo Pergami.

Then it is to be understood there was between the bed-room of the princess and the bed-room of Pergami nothing but that corridor, and that small cabinet? There was nothing else; one was obliged to pass through the corridor, from the corridor to the cabinet, and from the cabinet into the room of Pergami; there was nothing else.

On the other side of the room of the princess, what room was there? The great saloon.

Did any person sleep in that cabinet in general? There was no person who slept in that cabinet; it was free; there was nobody sleeping in it.

Did the other people of the suite sleep in that part of the house, or at a distance? They were separated.

Do you remember Pergami meeting with an accident? I do remember it.

What was that accident, and when? A kick from a horse, when her royal highness went to the lake of Agnano, together with king Murat.

In consequence of that accident, did it become necessary to take him home? It did.

Did you accompany him? I did not.

Did you attend him? I did wait upon him.

In consequence of this accident, was Pergami put to bed? He was obliged to be put to bed.

While you were attending him as you have described, did you see the princess? The first time that I saw her royal highness was in the presence of Dr. Holland, who was dressing his foot.

Did you give him any broth at any time? At the first I brought him vinegar.

Did you bring him any broth? Often.

Do you remember at any time when you were giving broth to Pergami, any body coming into the room? I do not remember.

In consequence of this accident which Pergami met with, was any direction given to you as to where you yourself were to sleep? I do remember an order.

Where were you directed to sleep? On the sofa in the cabinet near the fire-place.

Is that the cabinet of which you have been speaking? It is.

How many nights did you sleep there? Five or six nights.

Did you, during the night-time, see any person pass through your room? I do remember seeing somebody passing.

Did you say there was a fire in the room? Always a fire.

Who was the person that passed through your room? Her royal highness.

Did she pass through from the corridor to Pergami's room in that direction? She did.

How many times did this happen during the five or six nights which you state yourself to have slept in this cabinet? Twice.

As nearly as you can recollect, at what time of the night on the first occasion? About half an hour past midnight, between twelve and half past twelve.

How long did she remain there as nearly as you can recollect? Ten or fifteen minutes.

Describe the manner in which she passed through the cabinet, in what way she walked? Very softly; and when near to my bed stooped to see, and then passed on.

After the princess had entered the bed-room of Pergami, did you hear any conversation, or any thing else, pass between them? Only some whispers.

You have told us how long the princess remained the first night, can you state how long she remained the second time? Between 15 and 18 minutes, some minutes more or less.

Do you recollect having heard or observed any thing when the princess was in Pergami's room the second time? Whispering conversation.

Was there any garden attached to the house? There was a small garden attached to the cabinet where I was sleeping.

Was that garden open, or was it generally kept locked? For the most part locked.

What do you mean by "for the most part locked?" It was more often closed than open.

Where was the key kept? By Pergami.

Did the princess ever walk in that garden? I have never seen her.

About how long did the princess remain at Naples after you went into the service? About a month, or forty or forty-five days.

Did you go with the princess when she left Naples? I did accompany her royal highness.

Before the princess left Naples, and after you had entered into the service of the princess, did any of her English attendants quit her? There were some English of her suite that left her.

Who were they? I will state them.

Tell us the gentlemen first, and then the ladies? M. Sicard.

What was he? Maître d'hotel. Captain Hesse.

What was he? It was said that he was equerry.

Who else? The chaplain.

What was his name? I do not remember the name.

Who else? A chamberlain; a tall man; but I do not remember how he was called.

Do you know whether his name was Gell? Yes, he was called Gell, with two small mustachios.

Was there any body else that you remember; do you remember Mr. Keppel Craven? I do not remember; it was an English name.

Were there any other gentlemen that you remember to have left the suite of the princess at Naples? I do not remember, whatever I remember I will mention their names.

Did any ladies quit the suite at Naples? A small lady, rather a thin, but I do not remember what was her name; lady, lady something; she was thin.

Do you remember lady Elizabeth Forbes? I do not remember.

After you quitted Naples, you say you went to Rome, to what place did you go from Rome? To Civita Vecchia.

At Civita Vecchia did you embark on board any vessel along with the princess? On board the Clorinde, a frigate.

To what place did you go from Civita Vecchia? We passed by Leghorn.

Did you stop at Leghorn? A little time we stopped at Leghorn.

Do you happen to recollect whether any of the attendants left at Leghorn? I do not remember.

Where did you go to from Leghorn? To Genoa.

Did any person join the princess at Genoa? Captain Hownam.

Any body else? Lady Charlotte Campbell; a lady tall, rather fat, and two daughters; a handsome lady.

How long did the princess remain at Genoa? Forty or fifty days.

Where did she reside at Genoa? In a palace out of Genoa, towards the road that leads to Milan.

Do you remember whether the bed-room of the princess was near the bed-room of Pergami at Genoa? Between the room of Pergami and that of her royal highness there was a room in which they kept trunks, luggage, &c.

Did any person sleep in that room? There was nobody slept in that room.

In what way could you pass from the room of the princess to the room of Pergami? In coming out from the room of her royal highness, and passing through the room where the luggage was, there was an entrance to the room of Pergami?

Are you rightly understood, that you might pass from the room of the princess to the room of Pergami, directly through the cabinet where the luggage was deposited? Yes I mean so.

Did you observe where Pergami breakfasted while you were at Genoa? I made observations.

Where did he breakfast? In a small room at the top of the grand saloon.

Did he breakfast alone, or did any person breakfast with him? He and the princess; one morning I saw him and the princess take breakfast together in the small room.

Were you hired to wait upon Pergami or to wait upon the princess? To be at the service of her royal highness.

Did you in fact wait upon her royal highness, or did you wait upon Pergami? I waited both upon her royal highness and Pergami.

When you describe the princess to have breakfasted in this cabinet with Pergami, did any other person breakfast there? I saw nobody else.

Do you remember one night a courier of the name of Vinescati coming with a letter from Milan? I do not remember.

Do you remember at any time in the night knocking at the door of Pergami's bed-room, and endeavouring to wake him? I do remember.

Upon what occasion was that, for what purpose? It was in the night when Vinescati came, and I went to knock.

You say you knocked at night at the bed-room of Pergami, for what purpose was that? To call him up to tell him that there were people in the room.

What time in the night was this, to the best of your recollection? About one, or half past one.

Did Pergami make any answer? Pergami made me no answer.

Did you knock so loud that if Pergami had been there he must, in your judgment have heard you? He ought to have heard me; he must have heard me.

Did the princess ride out in any way? She did ride sometimes.

Did she ever ride upon an ass? She sometimes rode upon a donkey.

Did you, upon those occasions, make any observations as to any thing that passed between the princess and Pergami? Yes.

State what passed at the time she was riding on an ass? He took her round her waist to put her upon the ass.

What else? He held her hand lest her R. H. should fall.

Did you make any other observation? I have made no other observation; they spoke; they discoursed.

Was Pergami like the other servants in the house, or did he appear to possess more authority than the rest? He had the more authority; higher authority.

Was there an apparent distance kept up between the princess and Pergami, or was there an apparant intimacy and friendship between them? Rather a familiarity.

Did Pergami continue to sleep in that room you have described during the whole time of the residence at Genoa? I do not remember.

To what place did you proceed when you left Genoa? To Milan.

Where did you reside at first at Milan? In the house of Carcuna, near the New-gate.

How long did you remain there? About five or six days.

To what place did you go from that house? To the house of Boromeo, where there had been a tribunal of police.

Was it a house belonging to the family of Boromeo? It belonged to the family of Boromeo.

Do you remember, before you quitted Genoa, whether any of the relations of Pergami entered into the service of the princess? I remember.

Who were they? The sister of Bartolomo Pergami, who was called Faustina.

Was Faustina a married woman or single? She came without her husband; I do not know whether she was a spinster or married woman.

Whom else of the family did you observe? Lewis Pergami.

Any body else? The mother.

Any body else? A child.

How was that child called? It was a strange name.

Was her name Victorina? It was.

How old was that child at that time? Between two and three years old.

Did the mother of that child come? No.

Are the persons whom you have now enumerated all of the family of Pergami, who went into the service at Genoa? I remember no others but these.

What situation did Lewis Pergami hold in the family? Courier.

Did the mother fill any office; had she any duty? She had none.

What was Faustina? At that time nothing.

You have told us that after the princess left the house at Milan near the New Gate, she went to the house called the Boromean; how were the sleeping apartments of Pergami and the Queen situate in that house? I remember them.

Were they near to each other or at a distance? They were separated only by a wall.

How were the doors of the two rooms? At first people entered into an anti-room. On the right slept Mr. William, and going straight forward one might enter the room of Pergami; the room of Pergami finished the house on this side.

You have told us that the apartment of the princess was separated from the apartment of Pergami only by a wall? Yes.

Was there a staircase or a landing-place near to these two rooms? There was.

Was there any door that went out of Pergami's apartment on to that landing-place or staircase? There was a door that led on to this landing-place.

Was there also a door that went out of the princess's apartment to this same staircase? There was.

How far were these doors from each other? About seven or eight feet.

Mr. *Brougham* here observed, that he trusted the solicitor-general would take care that no other witnesses remained present while a witness was under examination. This was the practice in all other courts, and he had no doubt, from its propriety, would be adopted by their lordships.

The *Solicitor General* could have no possible objection to the removal and separation of witnesses. He was not aware that any witness for the bill was present, except the one under examination.

The *Lord Chancellor* said the rule of course embraced all the witnesses, both for and against, always of course excepting those whose duty it was to remain present.

The *Solicitor General* said, that his only wish was, to have the practice respecting witnesses observed here as in other courts. He wished it to be strictly general. He put it, therefore, not alone in point of strict practice, but in candour to his learned friend (Mr. Brougham), to take care that his witnesses should be excluded.

Mr. *Brougham* replied, most undoubtedly; he had no other wish than that the exclusion should be strictly general. All whom he knew he intended to call, he wished should be out of the House; of course he could not mean that the prohibition should extend to any of those whose duty it was to remain. There might be one or two whose duty it was to remain, that he might have hereafter to call.

The *Solicitor General* commented on the expression used by his learned friend, "all whom he knew he intended to call." He submitted to his candour whether all should not remain out that there appeared the smallest probability of his calling.

Mr. *Brougham* assured his learned friend that he did not mean to speak equivocally; he meant to deal fairly and candidly, and his learned friend might safely leave the matter to his candour, as he had appealed to it. Of course it was quite impossible for him to know, at this moment, what witnesses it might be necessary for him to call. He could not tell, until his learned friend's case was closed, whether he should call any witnesses or not. If he only heard such witnesses as the present called, he certainly should not call any. [A laugh.] He again assured his learned friend that he meant to exclude his witnesses until the time arrived for their examination.

Mr. Solicitor-General.—You described, that the two apartments were separated from each other by a wall, and that there was a

door in each apartment opening on the same landing-place, these doors being distant about two yards from each other; was that a private staircase, or did the bed-rooms of other persons open upon that same landing-place? This was a secret staircase, which led also into a small apartment, but it was not frequented; people did not frequent it.

Did any one sleep in that small apartment? The brother of Pergami.

Which brother? Louis Pergami.

Did the princess breakfast alone, or whom did she breakfast with during the time they were staying at this Boromean house? Sometimes she breakfasted with Pergami.

Did any other person breakfast with them? I have never seen any.

Did you wait upon them at breakfast? Sometimes I did; sometimes I did not.

When you did not, who did wait? Either Louis Pergami or a man of the name of Camera.

Who was Camera? The courier.

How long did the princess remain at Milan in the whole at that time? Between forty-five and fifty days.

During the time that she remained at Milan, did she take a tour to Venice? She did.

Before she went to Venice, had lady Charlotte Campbell joined her from Genoa? She had not.

Did lady Charlotte Campbell go from Genoa to Milan with her daughters? She did.

Did lady Charlotte Campbell go from Genoa to Milan with the princess? Yes.

In the same carriage at the same time, or did she follow her immediately afterwards? I do not remember.

How long did lady Charlotte Campbell remain at Milan? Four, five, or six days before her R. H. set out for Venice.

Did lady Charlotte go away accompanied by her two daughters? She took her two daughters with her, because her daughters were no more seen.

Had the princess then any English lady of honour left in her suite? I had not seen any.

Did any other person come; do you know a person of the name of the countess of Oldi? Yes, I do know her.

How soon did she enter into the service of the princess after lady Charlotte Campbell went away? Two or three days after.

Was the countess Oldi any relation to Pergami? It was reported, it was said, that she was his sister.

Was that known in the house at first, or was it kept secret? It was secret, it was not known.

Did you know that the countess Oldi was sister to Pergami? I knew it.

Was it generally known at first in the house? After they saw her in the house, they began to say that she was the sister of Pergami.

How soon was that after she came? When they saw her at table, and when the whole of the family began to see her.

Where did you go to at Venice? The Gran Brettagna.

How long did you continue at that inn? Three or four days.

What other house did you go to from that? A house next by, belonging to a private individual.

Can you tell us the relative situation of the bed-rooms of the princess and Pergami at that private house? I remember it.

Were they near to each other? One was here, and the other was here, next one another; there was only a great saloon between them; they were divided by the great saloon.

Did the doors of both bed-rooms open into that saloon? They opened into the same saloon.

Did you see the princess either at Milan or at Venice walk out with Pergami? Both at Milan, and also at Venice.

In what manner did she walk with him, side by side, or did she lean upon his arm? Walking arm in arm.

Was this both at Milan and at Venice? Yes, it was at Milan and at Venice I saw that.

Was it in the day-time or in the evening? By night.

At what hour? Half past nine or ten, between nine and ten.

You have already stated that Pergami dined at the table you have described; did he at any time dine with the princess at her table? I have seen him.

When did you first observe that he dined with her royal highness? At Genoa.

Did he continue to dine with her after the first time he had dined with her at Genoa regularly? Always, as far as I recollect.

Where did she usually sit at the table when he dined with her royal highness? Her royal highness sat at the top of the table, he was sometimes on her right, and sometimes on her left, and sometimes opposite.

You have said that the first time he dined with the princess was at Genoa; was the princess at Genoa more than once? I do not remember that.

You have told us that you went from Genoa to Milan; did you go to Genoa at any subsequent time, for the purpose of embarking on board a vessel?

Mr. *Brougham* objected to this question. He could not think their lordships would permit his learned friend to make his own witness contradict himself. If the answer were given in one way, it might contradict the preceding answer given by the witness. He must object to this way of pursuing an examination. It was, in fact, to put leading questions.

The *Solicitor General* disclaimed any intention of putting what could with propriety be called a leading question.

The *Lord Chancellor*. What is the question you mean to put?

The *Solicitor General*. I shall put it in this way, my lord—whether the witness after he left Genoa ever returned there to embark for Venice?

Lord *Erskine* said, that though he thought a counsel might put one question to a witness which would have the effect of contradicting a preceding answer given by that witness, yet that such a question ought not, nor need not, be put in a leading shape.

Yes, I returned to Genoa to embark.

When you say that Pergami dined for the first time with the princess at Genoa, do you mean when the princess was at Genoa the first time, or when she returned to Genoa for the purpose of embarking in the manner you have described? The first time.

Where did you go from the Boromean house at Milan? The lake of Como, the Villa Villani.

How long did you remain there? About a month and a half.

You have described the room of the princess as being near that of Pergami, were the other rooms occupied by the persons of the household at a distance? They were.

How many rooms were there between the bed-room occupied by the princess and that occupied by Pergami? On one side there were two rooms, and on the other side there was nothing but a small passage.

By that do you mean to say, there were modes of passing from Pergami's bed-room to the princess's? There were.

One of which was through two rooms, and the other through a passage, is that so? Just so.

Did any persons sleep in the rooms you have described? There was nobody slept in those two rooms.

Did the other people of the court sleep in that part of the house, or in a different part of the house? They were sepprated from that part of the house?

Did you make the bed of Pergami at that time, or assist in making it? Yes, I did.

Did you observe whether that bed was slept in every night, or not? No.

Could you tell from your observation upon the bed, whether or not Pergami had always slept in it, or whether he had slept elsewhere? The bed had the appearance that he had not slept in it.

Did that happen at Villa Villani? It happened also somewhere else.

Did it happen often at Villa Villani? Yes.

Do you remember the princess at the Villa Villani wearing a blue silk bed gown, lined with red? I remember it.

Do you remember the princess giving that blue silk gown to Pergami? Yes.

After you had seen the princess wear that blue silk gown, did you see Pergami wear it? Yes, I remember it.

Often? He had always this dress upon him.

In the presence of the princess? Yes.

When you make use of the word always, do you mean always in the morning, or through the whole of the day? Every morning when he made his toilette.

At what time did the princess usually rise in the morning? Half-past ten, eleven, alf-past eleven.

When she rose, did she usually ring for her servant or call for her? Sometimes she called; sometimes she did not ring the bell; but for the most part she called.

Did Pergami rise at the same time, or before, or after the princess? Sometimes he got up at the same time that her royal highness did; sometimes he got up a quarter of an hour later than her royal highness.

Where did the princess go to from the Villa Villani? The Villa d'Este.

How long had she staid at the Villa Villani before she went to the Villa d'Este? Forty-five or fifty days.

Do you happen to recollect the relative situations of the bed-rooms of the princess and of Pergami at the Villa d'Este? I do not remember, because it has been changed all anew.

When did that change take place? When the voyage to Egypt was undertaken.

How long did you remain at the Villa d'Este before you went upon this voyage? About two months.

On board what vessel did you embark upon this voyage at Genoa? A man of war.

The Leviathan? The Leviathan.

To what place did you go in the Leviathan? We went to Porto Ferrajo.

From Porto Ferrajo where did you go to next? To Palermo.

Did the princess go to court at Palermo? She did so.

By whom was she accompanied? I do not remember.

How long did she stay at Palermo? Twenty or twenty-five days; no more: I do not remember properly.

To what place did you go from Palermo? To the princess Bodari.

After you left Palermo, which place did you go to? Messina.

Did the princess take a house in Messina, or near Messina? Near Messina; in the neighbourhood.

Do you know the relative situations of the bed-rooms of the princess and Pergami at Messina? I remember.

Were they near each other? Between the room of the princess and that of Pergami there was a room in which the dame d'honneur slept.

Who was that dame d'honneur? A sister of Pergami.

Did the other persons of the suite sleep in that part of the house or in another part? In another part of the house.

You have told us, that the only room between the princess's room and Pergami's, was the room of the countess of Oldi; was there a communication through that room from the princess's room to Pergami's? No, it was necessary to pass through the room of the dame d'honneur.

Is it to be understood that there was an interior communication from the princess's room to Pergami's, through the room occupied by the dame d'honneur? By passing through the room where the dame d'honneur slept, one might pass from the room of Pergami to that of her royal highness.

Do you recollect Pergami breakfasting or eating with her in the morning at Messina? I do.

In what room was that? Beyond the room where her royal highness slept there was a cabinet which led into a garden, and in that cabinet they took their breakfast.

Did they breakfast alone, or was there any other person with them in general? Alone.

Do you remember Pergami at Messina asking leave of the princess to go and make some purchases? I do.

Did the princess give him leave? She gave him leave.

Describe what took place when they parted from each other for that purpose? I saw Pergami, when the princess was going to take her breakfast come in and say, "Will your royal highness permit me to go to Messina to make some purchases;" and having had this leave, he took her hand and kissed her lips.

About how long did the princess remain at Messina? Twenty-five or twenty days, that is about the time; I cannot take upon myself to say precisely.

To what place did the princess proceed from Messina? To Syracuse.

Did she proceed by sea or by land? By sea.

Did she lodge at Syracuse, in the town of Syracuse, or in the neighbourhood? In the neighbourhood, out of the town.

Did the princess continue to live in the same house that she originally took at Syracuse? In the same country house.

Was it near the pier? About a gun-shot.

Describe the relative situations of the bed-rooms of the princess and Pergami at that house you have now mentioned? Her royal highness slept in a room under, and he slept in a room above.

Mention whether there was a private staircase communicating from the one room to the other? There was a private staircase.

Did that staircase lead immediately from one room to the other? It did immediately.

Was there another entrance into the bed-room of the princess for the ordinary purpose of persons who waited upon her? The chamber occupied by her royal highness had another entrance, that led into the saloon where they dined.

Do you remember seeing Pergami, at any time before going to Syracuse, go into the room of the princess, without being entirely dressed? I remember it.

The question was repeated at the request of her majesty's attorney general. Yes.

Mr. Solicitor General.—Where was this? If I do not mistake, I believe it to have been at the Caza Villani.

What part of his dress had he on? He had that morning gown on which her royal highness had given to him, with his stockings and his under small clothes or drawers.

Where did the princess go to from Syracuse? To Catania.

Can you describe the relative situation of the rooms of the princess and of Pergami at Catania? I can.

Were they near to each other, or distant? In a kind of court or yard a little smaller than this room, this house.

Was there any thing else except that court interposed between the bed-room of the princess and the bed-room of Pergami? There was nothing else but this court or yard.

Could any other person, after they were in bed, get into that court? No, because there was a door which was locked.

Do you remember whether Pergami was taken ill at all at Genoa? I remember it.

State whether it was necessary that his bed should be warmed? It was.

Did you warm the bed yourself? I did.

Did you see the princess upon that occasion? I did.

Was the princess in the room before you went in, or did she come in afterwards? I was already in the room when her royal highness came.

How was Pergami sitting? Upon a bench or stool while I was making the bed.

Was any direction given to you as to the mode of warming of the bed? I received an order.

From whom? Her royal highness.

What did she tell you? To warm the bed; to make it neat, clean, and nice, or comfortable.

Did Pergami take any medicine upon that occasion? He did.

Who mixed the medicine for him? I do not remember.

How long did the princess remain in the room? During the time that the bed was warmed.

Was Pergami, at the time when he was sitting on the side of the bed, entirely dressed, or partly undressed? He was not dressed; he was dressed in part.

Can you state to what extent he was dressed; what part of his dress he had on, and what part of his dress he had off? He had this morning gown on, but I do not remember what other things he had on.

How long did the princess live at Catania? About a month and a half, I cannot remember the time precisely.

To what place did she next go? To Augusta.

Did she go by land or by sea? By land.

Do you remember the situations of the bed-rooms of the princess and Pergami at Augusta? I remember.

Can you describe them? There was a small yard or court into which led both the rooms of her royal highness and Pergami; from the room of one you would pass into the yard, and also the other.

After they were in bed, could any person get into that court? No, until they got up in the morning.

At Augusta did you embark on board any vessel? We embarked on board a polacre.

Was that an Italian vessel? It was said that it was a Neapolitan polacre.

Where did you go in this vessel from Augusta? To Tunis in Barbary.

At Catania or Augusta, one of the two, did Pergami receive any title? It was at Catania

Was he ever called excellency? I remember his being called so.

Was that at Catania? At Catania he was called his excellency.

Did he wear any decoration? An order of the knighthood of Malta.

Do you know whether while he was in Sicily he received any other title? This I do not remember.

Do you know whether at any time he was ever called baron? I remember he was called a baron of the Franchina.

Did he receive that title first in Sicily? Yes he did.

Do you recollect where Pergami slept on board the vessel, the polacre? He slept in the cabin where they dined.

Was the princess's cabin adjoining to that cabin where they dined? It was near.

Did any other person sleep in that room where they dined? I do not recollect.

When the princess arrived at Tunis, where did she reside? At the English consul's.

Did she reside there during the whole time she was at Tunis, or did she change her abode? She changed her lodgings.

Where did she go to afterwards? The palace of the bey.

Do you remember the relative situation of the bed-rooms of the princess, and of Pergami, in the palace of the bey? I remember it.

Were the rooms near each other? They were a little distance.

What separated them? There was after the room of Pergami a little room, a small passage or corridor, then a large passage, in which there was nobody, and that large room led into the bed-room of the princess.

Did any body sleep in the small intermediate bed-room? No, because the small room was neither a bed-room, nor any other room, but a mere room of passage.

Did the rest of the suite sleep in that part of the building, or a different part of it? All in another part.

Did the princess go afterwards in that vessel to Constantinople, and after some intermediate places to Scala Nuova? Yes.

Where did the princess's suite lodge at Scala Nuova, in what kind of building? They did not stop at Scala Nuova, but went to see the grotto of the Seven Sleeping Men.

How far is that from Scala Nuova? Half a day's journey.

Do you remember a place where there was a barrack? Yes, a caffé turque.

Where was that? A little before going to the grotto of the Seven Sleeping Men.

Did the suite of the princess take up their residence in that caffé or barrack during the night? Yes, they did.

Do you remember a vestibule and a small church surrounded by a wall near that spot? I remember it very well, or too well.

Where did the princess sleep the first night upon her arriving at that place? Under the caffé, or within the caffé, under things all made of boughs of trees.

Do you remember while they were at that place, being sent for by Pergami, or the princess, to that vestibule inclosed in the wall which as been mentioned? I do.

Was the princess there at that time? She was.

Was Pergami also there? He also was present.

Was there any other person present? No one else.

Was it surrounded by a wall? It was surrounded by a wall.

Was the princess's travelling bed taken there? I carried it myself.

By whose direction? Both Pergami and her royal highness.

Did Pergami and her royal highness remain there together? Yes.

Had you prepared the dinner in any other place? I had carried it into the coffee house, and her royal highness and Pergami ordered me to carry the dinner within this place, surrounded by a wall.

Did they dine there by themselves? They were alone.

Where was the princess sitting? Sitting on the bed.

Where was Pergami sitting? On the ground, at the feet of her royal highness.

Did you wait upon them? I did.

After dinner was over, did they remain there? Yes.

Was any other person with them? There was no other person present.

Did the bed remain there? It did.

How long did they remain together in that place? An hour, or an hour and an half.

Where did they go to from Ephesus? To Scala Nuova.

Did they embark again on board the polacre? They did.

Where did they land? At St. Jean d'Acre.

Do you remember going from St. Jean d'Acre to a place called Aum? Yes, under the tent.

At Aum did all the servants of the princess's suite remain in the day-time under tents? They were under the tents.

Were they in the habit of travelling by day or by night? In the time of night.

And they went to sleep in the day-time? Yes, they slept during the day.

Under tents, in the manner you have described? Yes.

Do you remember the tent under which the princess slept? I do.

Was that among the other tents, or at a distance from them? It was at the distance of six or seven paces from the rest of the tents; there were three or four paces distance between them.

What, to the best of your recollection, was the distance between the tents occupied by the rest of the suite and that tent set a part for the princess? Five or six paces.

Under the princess's tent was there a bed? There was.

Was that the ordinary travelling bed of the princess? There was a little small travelling bed that her royal highness had ordered to be placed there, and there was a Turkish sofa.

Did this tent consist of one circle or of two? There were two tents one into another, a double circle.

You have told us there were a bed and a sofa in the inner tent, did you see the princess there and any person with her? There was Pergami.

In the inner tent where the bed and the sofa were? Yes, and sometimes the little child.

Were the bed and the sofa placed within the inner tent? They were within the interior tent.

Was that inner tent of a circular form? Both were in a circular form.

What distance was there between the inner circle and the outer one, as nearly as you can recollect? The length of my two arms.

Were Pergami and the princess there during the time that was allotted for sleep? During the time of rest.

Were the inner tent and the outer tent both closed? The inner tent was shut up by them, and the outer tent he might either close or leave it open as he chose.

When you say that the inner tent was shut up by them, by whom do you mean? Bartolomeo Pergami, because the tent was closed from the inside.

Did they remain there during the whole time that was allotted for sleep? Yes, they did.

Do you remember going from Aum to Ragusa? No.

Do you remember going from Aum to Jerusalem? Yes.

Did you stop between Aum and Jerusalem? Yes.

Did they encamp again in the same manner? They raised the same tents in the same way.

Did the princess and Pergami again sleep under the same tent? Under the same tent.

How many days were spent on this journey in which they were travelling with tents? About two days, or two days and a half.

After the return from Jerusalem, where did the princess again embark? At Jaffa.

On board the same vessel? Yes, the same vessel.

On the voyage to St. Jean d'Acre, had the princess slept below in the cabin? Yes.

Do you remember on her embarking at Jaffa, on her voyage home, any tent being raised on the deck? I do.

What beds were placed under that tent? A sofa.

Was there a bed besides a sofa? A travelling bed.

Of the princess's? A travelling bed of the princess's.

Did the princess sleep under that tent generally on the voyage from Jaffa home? She slept always under that tent during the whole voyage from Jaffa till the time she landed.

Did any body sleep under the same tent? Bartolomeo Pergami.

That was on the deck? Yes, on the deck.

Did this take place every night? Every night.

Were they shut in; were the sides of the tent drawn in, so as to shut them entirely in? When they went to sleep the whole was enclosed, shut up.

Did they use a lanthorn or a lamp for the purpose of going to bed? They had a light.

You have said there was a light used, what was usually done with that light? Sometimes, after I had made the beds, Bartolomeo Pergami told me to take away the light, and I took it away; sometimes Pergami himself gave me the light out of the tent, by thrusting his hand between the lower extremity and the deck.

Where those beds regularly prepared every night? Every night.

Do you remember whether the princess bathed on board this vessel? I remember it.

Where was the bath prepared? In the cabin of her royal highness.

Who assisted her at the bath? The first time I carried the water into the bath, and then Pergami came down and put his hand into the bath to see the temperature of the water; then he went up stairs and handed her royal highness down, after which the door was shut, and Pergami and her royal highness remained alone in the cabin.

Do you remember whether this bathing took place more than once? I remember that it has been more than once.

Do you remember, at any time, when the princess and Pergami were below in the room for the purpose of taking a bath, being called to supply any additional water? I do remember, two pails, one of hot and the other of cold water.

Do you remember who took that water in?

I went with the water as far as the door of the cabin, and then Pergami came half out of the door and took the water, and took it in.

Do you know whether, at the time when you took the water in this way, the princess was actually in the bath or not? I cannot know.

Where was the cabin that you slept in situated, with reference to the tent you have described on the deck; was it under it, or how? I slept in the dining-room, on a sofa.

Was that, or not, under the tent? It was immediately under the tent, below deck.

Did you ever, on any occasion at night, while the princess and Pergami were in the tent, hear any motion over you? I have heard a noise.

What did that noise resemble; what did it appear to you to be? The creaking of a bench.

Where did the princess land? At Capo d'Anza, in the pope's dominions.

Where did she go to from Capo d'Anza? I do not know, because I did not follow her.

Who went a-shore at Capo d'Anza? The princess, the sister of Pergami, countess Oldi, Hownam, the Turk, the Moor, a man called Camera.

Who was the Turk; how was he called? One was called Salem, and another Soliman; but I think the turk was Soliman, and the other Salem.

Do you know a person of the name of Mahomet? Mahomet.

Where did he embark on board the vessel? At Jaffa.

Did Pergami go on shore at Terracina? He did.

Was that before the princess landed? Before.

For what purpose did he go? For the purpose of getting leave to land without performing quarantine.

Do you remember the princess and Pergami taking leave of each other at the time he landed at Terracina? I remember it too well.

What passed between them? I saw him, at the time of taking leave, kiss her royal highness.

Where were Pergami and the princess at that time? They were in the cabin where they dined.

Where did you again join the Princess? At the Villa d'Este.

How long did the princess and Pergami remain at the Villa d'Este before they again left it? About a month, I think.

How long did the princess and Pergami remain at the Villa d'Este before they again left it? I performed the Quarantine at Genoa forty days, and I arrived thirty-seven days after her royal highness had arrived, and I remained there one month.

What time was it that you got to the Villa d'Este? I do not remember.

Did the princess and Pergami, after you arrived at the Villa d'Este, go to a place called the Barona? They did.

How soon did they undertake that journey after your arrival at the Ville d'Este? A month.

Whose house was the Barona? I do not remember.

Do you know a place called the Villa Pergami? This I remember.

To whom does that house belong? To Pergami now; he has bought it now.

Are the Villa Pergami and the Barona the same place? It is the same place. Before it was called Barona, and now they have changed the name, and it is called the Villa Pergami.

Do you know when Pergami became first possessed of that place? I remember that it was about the time that they were in the house Villani; but I think that it was while they were in the Villa Villani that he bought this house.

Was this Villa Pergami, not the house but the estate about it, of considerable extent? There is land about it, and a species of rough house where they make cheese for the farmers; a farm-house.

How long did the Princess and Pergami remain in the Villa Pergami on that visit? About the time of six weeks, a month and a half; afterwards they took the road to Bavaria.

Was that during the carnival? It was during the carnival.

Do you recollect the relative situations of the bed-rooms of the princess and Pergami at the Villa Pergami? I do remember.

Were they near to each other? They opened both on the same landing-place.

By crossing that landing-place was there a free communication between the one and the other? Yes, the landing-place was about a yard in length.

Was that separated from the other bed-rooms of the house? From all the rest of the house.

Do you remember while the princess was at the Villa Pergami, any dances or balls being given there? I do remember.

Did that occur frequently? I remember twice.

How far was this from Milan? Two miles?

What description of persons attended at those balls? Country people, peasants.

Did any of the nobility of Milan visit her during the time that the princess was living there? I do not remember it. Yes, at one time Bellegarde went to pay his respects to her royal highness; then after that Saurau, his successor.

Was Saurau his successor? Yes, after Bellegarde went away, Saurau came.

Did you accompany the princess on her journey into Bavaria, and into Germany? I did.

Do you remember how the apartments of the princess and Pergami were arranged in that journey, at the different inns through which they passed? I remember in Bavaria.

At what place? At an inn, the Golden Stag at Munich.

How were they arranged at that place? The dining room separated the bed-room of her royal highness from that of Pergami.

Do you remember in the course of that journey, or any other journeys, the rooms being arranged by the master of the house, before the princess arrived, and being afterwards changed? I remember it.

Do you remember, upon any occasion, in those journeys, the rooms being arranged for the respective parties before the arrival of the princess? I do remember.

Do you remember after such arrangements had been made upon the arrival of the princess and of Pergami any change in the arrangement being made? I do remember.

Can you state whether that happened more than once, and at what places? I remember it to have happened in Bavaria.

At what place in Bavaria? At the Golden Stag at Munich.

By whose order was the change made? Her royal highness and Pergami.

How were the apartments originally arranged; were those of the princess and Pergami near or distant from each other? Distant.

Was the change afterwards made to the relative situation you have before described? They were changed, and then Pergami said, this is the room where her royal highness is to sleep, and this is the room where I shall sleep.

You have stated the conversation which took place about the rooms in which Pergami was the speaker; was her royal highness present at the time? She was present.

Adjourned till to-morrow.

HOUSE OF COMMONS.

Monday, August 21.

The Queen—Adjournment of the House.] Lord *Castlereagh* rose to move that the House at its rising should adjourn to that day four weeks. His object in moving such an adjournment was, that the House should be enabled to provide for the proper course, in whatever state the proceedings of the Bill before the House of Lords might be at the time. So that in the event of any interruption to the proceeding, by giving time to her majesty to call evidence from abroad, an ulterior adjournment might then take place, or that time might be given for the fullest attendance by a call of the House.

Mr. *Tierney* said, if he understood the noble lord, the arrangement was, that nothing should take place at the period when the proposed adjournment should end, but to fix a convenient period for a call of the House.

Lord *Francis Osborne* said, his objections to the bill now in progress through the other House were so deep-rooted and insuperable, that, if it were in his power, he should think it his duty to prevent even the threshold of the House from being polluted by it. He for one begged to give notice to the noble lord that no power on earth should ever induce him to enter into that mockery of justice. He meant not to say that he would not attend in his place to oppose the introduction of the bill; but sooner than incur the disgrace of making himself a party in a mock judicial proceeding, he would resign his seat. He protested against a proceeding that would convert that House into a judicial tribunal, for which it was wholly incompetent; and so strong was his conviction of that incompetency, that he thought he was not using too strong an expression when he said that the House had damned itself as a court of justice by passing the Grenville act. He should therefore move as an amendment to the motion of the noble lord, "That an humble address be presented to his majesty, praying that his majesty will be graciously pleased forthwith to prorogue the parliament."

Mr. *Hobhouse* rose to second the amendment. He had that day come down to the House under the full impression of moving a similar amendment to that proposed by the noble lord, if no member more competent to the task undertook that duty. He was most anxious to take the first opportunity of entering his protest against that monstrous measure of iniquity which was now in progress in another place, to the disgrace of the House of Lords, and the degradation of the monarchy. If he had no other objection to the measure, the preparations he had witnessed that day—preparations got up by the ministers for the purpose of hedging themselves in their alarming course—would alone have compelled him to call upon them to desist. Never, he believed, had this country witnessed such a sight as had been presented to him that evening on coming down to perform his duty as an English member of parliament; never since the days of Oliver Cromwell had a similar spectacle been exhibited. What was the world to think of a measure that could not even be generated without an assemblage of military guards; and that could not be carried on without filling with troops every apartment in the neighbourhood of parliament, and every avenue leading to either House? Indeed

he should have thought it his duty, had he not been prevented by the motion of the noble lord for the adjournment, to move that the commanding officer be called to the bar, to state by whom he had been ordered to take such a station. It was not enough to say that the House of Lords required the protection of the military; he for one would object to moving one step in this business until the army was removed from the chambers of parliament. He did not know if it was not even the duty of a member of that House to move that the military be withdrawn from the House of Lords; for it could not be forgotten that by a military force, Cromwell dismissed an English parliament, and Buonaparte dissolved the Council of Five Hundred at St. Cloud. Without entering into any discussion of a question that had already been so ably argued both in that and in the other House of Parliament, he should content himself with expressing his gratitude to the noble lord for his amendment, which he gladly seconded.

Mr. *Tierney* could not agree to the amendment recommending a prorogation of Parliament, after the proceedings that had already taken place in the Lords. It would be most unjust to her majesty, after what had passed, to stop short, and deprive her of the means of defence. When he said that, he begged it to be understood, as not lending himself in any degree in support of the form of proceeding. To that, no man could feel a stronger objection than himself. In acceding to the motion of adjournment, he felt he was giving no pledge to the course he should pursue, whether to receive the bill, or to suggest another mode, or that he was surrendering an iota of the privileges of that House.

Mr. *Western* expressed his decided aversion to the erection of that House into a court of justice. In every view of the subject, such a course was attended with difficulty and danger. He assured the House, that from one end of the country to the other, there could not be found an impartial person who did not regret the prosecution that was now going on. Not an individual could be met who did not regret, nay even condemn, the erasure of her majesty's name from the Liturgy. He never yet heard a single ground on which that fatal act could be defended. The people were loud in the expression of their abhorrence at the treatment her majesty had received. Possessing the same feelings, he should give his support to the amendment of his noble friend. He did so the more willingly, because that House had, by its former resolutions, condemned the commencement of the prosecution. It at present stood clear of the contamination, and he trusted it would never find its way within its walls.

Lord *A. Hamilton* observed, that he felt as fully as any member the unfortunate predicament in which the House was placed. He felt as fully as his right hon. friend (Mr. Tierney) the conflicting difficulties and dangers that on every side surrounded the question, but he also was convinced that these difficulties and dangers were much more likely to be increased by a continuance of the present course, than by at once putting a termination to it. It was with that conviction that he should give his support to the amendment. To justify his own consistency hereafter, he took that opportunity of declaring, that whenever or in whatever shape the proceeding came before them, his vote should never be regulated by the consideration of the guilt or innocence of the accused. He felt, then, as he from the first moment declared, that his insuperable objection to the prosecution of the Queen, whose life, not for the last six, but for 26 years, has been a life of unparalleled persecution, arose from his full conviction of her being precluded from the possibility of having justice extended to her, on the consideration of her guilt or innocence. In considering the guilt or innocence of that unhappy woman, there must be taken into consideration so many shades, such a variety of discriminations, such palliations, that he ever must contend, that those who originated the prosecution, were disqualified by their very own acts towards her, from proceeding against her. When he reflected on the manner in which she was forsaken, abandoned, and insulted at home—persecuted and vilified abroad—he felt he should not be acting with justice towards her, if he did not protest against a trial, instituted under such circumstances, and conducted by such accusers. That was not the proper time to cast imputations on his majesty's ministers: but he could not help saying to them, that they could with a very ill grace, accuse others of inconsistency, who had themselves given such frequent proofs of

the most palpable contradiction. In what a perilous predicament, he would ask the noble lord, would the country be placed, if, after the House of Lords approved the Bill of Pains and Penalties, the House of Commons rejected it! The House would recollect, that at the same moment a Green Bag was sent to both Houses; and yet his majesty's ministers had themselves declared, that nothing could be more unadvisable than that two proceedings should be going on at the same time in both Houses. He felt, in common with every man in the country, an insuperable aversion to a legislative proceeding which constituted the offence, affixed the crime, judged the criminal, and inflicted the sentence. But above all, when he considered that this anomalous proceeding was to be carried into execution in defiance of all public opinion, denying that power of recrimination which the law of the land afforded to every other person labouring under the same accusation, he must continue to view it as a most fatal prosecution. With that body of evidence before him—with such a mass of misapplication as the whole proceeding presented, he found himself obliged to make a choice of evils, and he felt he took the least when he voted for the amendment of his noble friend.—Referring to the motion which had been made on a former occasion by the hon. member for Bramber, he observed, that the effect of that motion had been to fortify his majesty's ministers on the question. It was impossible that the hon. member's motion could have succeeded: for it was, in fact, to ask a person who had already suffered great injury, to submit to still greater. If the amendment which he (lord A. Hamilton) had moved to address the Crown to restore her majesty's name to the Liturgy, had been carried, all the evils which had ensued, and which would ensue, would have been obviated.

Lord *Castlereagh* was of opinion that nothing ought to drag the House, under the present circumstances, into any thing like a discussion of the great question at issue. On a subject so extensive, so important in all its bearings, and requiring so much calmness and time, the House ought not to be forced into an immediate deliberation. He was not aware of any existing circumstance which should lead the House to depart from the course they thought best at the period of their last separation. He was not surprised that the noble lord thought fit to object, in a constitutional point of view, to the mode of proceeding which had been adopted. He was not surprised that the noble lord differed from him on the subject. Whenever it should be the pleasure and convenience of the House, however to make the inquiry, he should be quite prepared to justify his colleagues and himself, both with respect to the merits of the measure itself, and with respect to their conduct upon it. But that was not the question on the present occasion. After the extended and elaborate debate which preceded the last adjournment of the House, it was considered expedient to separate, leaving the question as it was at that time pending before the House of Lords, and which might probably bring the bill before the House of Commons. It was then understood that it was probable no other subject would arise at their re-assembling, than what would be the ulterior adjournment which it would be expedient to adopt. To press any other subject at present would be rather a surprise on that part of the House not present, who had no idea that any important business would be transacted without notice. Unless the noble lord, therefore, could show that something had occurred since the last adjournment, that afforded a new view of the case, he did not think it would be expedient to introduce the important subject into discussion in the present attendance of members, which, although great, was not what both sides of the House must wish for on this serious and constitutional question. What circumstance had occurred since the separation of the House, to make it more consonant to wisdom and justice to interpose and quash the proceedings? When the House last separated, there was of necessity some doubt whether or not the other House would take any proceeding. But they now knew by the examination of the journals of the House of Lords that a proceeding had been adopted by that House. It was a matter, indeed of public notoriety, and he might therefore perhaps say so without being very disorderly, that all the facts of the case had been opened to the other House, and would necessarily go forth to the world. Under such circumstances, he thought that no man who had a value for justice, for the dignity of the Crown, for the morals of the country, and above all, for

the personal honour of her majesty, would propose that the subject should be quashed and extinguished; and thereby leave her majesty in the calamitous situation of having such a case opened against her, without giving her the opportunity of answering it. Did the noble lord who spoke last, look to the perils with which the constitution was assailed, only in the form which those perils assumed in a bill of Pains and Penalties. The noble lord did not always contemplate penal statutes with so much horror. The bills for reforming the representation of certain boroughs in Scotland were tolerably penal. The noble lord, however, seemed to have made up his mind, more like a stoic than a friend, to leave her majesty in her painful and degraded situation, without giving her the means of justifying her character from imputation. God forbid that he should consider that any thing which had yet passed in the House of Lords had been proved, but no man who regarded the honour of the Queen, the Crown, or the country, could propose to arrest the case in its present state. To address his majesty to prorogue parliament would be to quash and extinguish the whole proceeding, without affording her majesty any mode of vindicating herself. He could not but consider the noble lord who had last spoken, a singular kind of friend to her majesty to recommend such a course. The House would feel, that the Queen would be placed in the cruellest situation that woman was ever placed in, if they were now to tender advice to his majesty —advice, which indeed, under the circumstances of the case, would be scarcely constitutional — to prevent the other House of parliament from proceeding, and thus to extinguish their deliberative faculties. What interpretation would such an act bear in the eyes of the country, contrasted as it would be with the grounds on which the House had last separated? Would it be attributed to considerations connected with the public interest or safety; or would it not be rather imputed to fear and intimidation—feelings which every effort had been made to excite since their last separation? There was nothing before the House to induce them to accede to such a proposition. It would, therefore, be ascribed to a base surrender to the endeavours so actively and perseveringly made, to create a flame in the country, to inculcate the belief that a conspiracy against her majesty had been got up by government, for the purpose of inflicting an injustice upon her which every honest mind abhorred. Although in that House he felt it unnecessary to disclaim any such intention on the part of government, it would be in vain to make such a disclaimer to the persons to whom he alluded. In the name of God he adjured that House not to add their influence in disseminating this delusion. Let them do their duty fairly and steadily. They might depend upon it, that the facts would tranquillize the country one way or the other. Either the honour of the Queen would be vindicated, and the charges against her majesty would be proved to be destitute of foundation; or the accusation would be substantiated in a way that would leave it to the wisdom of parliament to deal with it. The House might rely upon it that the moment the facts were known the country would be tranquillized. If the House wished to keep the country in constant fever and agitation, open to every daring spirit, fit for the purposes of every base conspirator and political adventurer, they could not succeed better than by addressing his majesty to prorogue parliament, as if there was no consideration of public justice or public safety which required that they should remain assembled. One hon. member seemed to regard with something like constitutional jealousy the military force then in the neighbourhood of the Houses of parliament, and appeared to consider the placing of that force in such a position as quite a novel proceeding. If the hon. member would inquire, he would find that it was not a measure of the executive government that the troops were so stationed. It had been done in consequence of an order of the other House of Parliament, which order was founded on precisely the same resolution as that agreed to at the impeachment of Mr. Hastings, when no one supposed that there was any necessity for an armed force to be in the neighbourhood for the security of parliament. It would be remembered that the peers invariably went to the hall accompanied by a body of horse-guards. He said this to repel the notion that there was any thing in the measure which had not a precedent in the best of times—at times when it could not be pretended by any one that the liberties of the subject were in any way threatened.

Lord *A. Hamilton* in explanation, stated, that what he had said was, that being bound to vote on the present occasion, he, after deliberating on the difficulties which pressed on both sides of the question, would give his reluctant vote for the amendment. The noble lord had talked of him as being the friend of the Queen. He wished to be understood as the friend of the country, and in that capacity he was anxious to put a stop to the present proceedings.

Mr. *Wilberforce* would not have troubled the House with any observations on the present occasion, had it not been for what had fallen from a noble lord, who had alluded to the motion which he (Mr. Wilberforce) had some time ago made on the subject of her majesty, but which had not experienced the success that he expected. But for that he should have contented himself with silently acquiescing in the motion for the adjournment, it being distinctly understood, that in doing so, no hon. member pledged himself to any opinion on the bill of pains and penalties, if it should come down to that House. The noble lord had stated in that House what would be studiously and industriously repeated elsewhere; that he (Mr. W.) had been anxious in making the motion to which he had alluded, to fortify ministers. He declared, from the bottom of his soul, that nothing could be more sincere than his desire on that occasion to put an end to the necessity of any further proceeding. He had no intention to fortify ministers.

Lord *A. Hamilton* observed, that what he had said was, that the hon. member's motion had that effect—not that the hon. member had that intention.

Mr. *Wilberforce* said, that when a proposition such as that which the noble lord had advanced, was accompanied with a guard, the proposition generally appeared elsewhere, but without the guard. That was generally dropt. It would, in all probability, be stated elsewhere, that the noble lord had said, not that such was the effect, but that such had been the object of his motion. He had frequently been subjected to the most detestable calumny so originating. He was obliged to the noble lord, however, for the explanation. As to the amendment proposed by the noble lord on that occasion, to address the King to restore her majesty's name to the Liturgy, he had not made such a proposition to the House, because he knew he could never have carried it. It had been declared by his majesty's ministers, that they would lose their places rather than advise his majesty to acquiesce in any such recommendation. How, therefore, could he hope to carry his motion? He solemnly declared, that when he made the motion alluded to, he thought it would be successful. He argued thus: The assurance of so large a majority of the House of Commons, that her majesty's acquiescence in the request of the House would not be construed into a disposition to shrink from inquiry, but only as manifesting a wish to coalesce with the wishes of parliament. He did think that the character of the House of Commons was so high, that it would be a far greater boon to her majesty as an equivalent, than that proposed in the antecedent negotiation by her majesty's law advisers. He certainly never did wish to stop any thing so much as he did to stop that proceeding. It had already produced many evils; but he did not think the House foresaw all that would ensue. Already disclosures of the most injurious moral tendency had been made; but the matter would be much worse when the evidence appeared, and was followed by the necessary discussion. With reference to the form which the proceeding had assumed, he confessed that his mind had been so completely occupied with a disposition to quash the matter altogether, that he had not paid sufficient attention to that particular. This however was not the time to discuss the question, but he reserved to himself the full right of expressing a future opinion upon it. He must say, however, that if the bill were to be brought down to that House, it appeared to him that it would become an absolutely interminable proceeding. The House of Lords was accustomed to act as a court of justice. Many members of it had filled the highest official situations, and of course were listened to by the other peers on questions of law with great deference. If necessary they had also the twelve judges to refer to. But how was the House of Commons situated in that respect? Every single question to a witness might become the subject of debate for an evening. His legal friends knew that the other hon. members of the House demurred, allowing that they had more legal knowledge. There would, therefore, be as much discussion on the points of law, as on any other part of the sub-

ject. He regretted exceedingly that some other mode of proceeding had not been preferred. There had been a necessary deviation from precedents. In the establishment of a new proceeding, it ought to have had at least some analogy to other proceedings. For instance, formerly in the House of Lords, the lord high steward summoned a committee of the Lords to investigate cases of treason; at which the whole House might be called at pleasure to attend; although that was abrogated by the 7th or 8th of William 3rd. He wished that some such proceeding had been adopted in the present instance, that, by way of guarding against the frailties of our nature, a reduced committee had been framed, such as, so much to the honour of that House, was effected under the Grenville act—that a secure firm spot of land should be rescued from the great ocean around. For the noble lord's proposition to address the King to prorogue parliament he could, however, by no means vote. It would be just neither to the Queen nor to the country to leave her majesty in her present condition. Most heartily should he rejoice if her majesty should acquit herself of the charges preferred against her; although in that event he should be far from admitting, what was so roundly asserted, that a conspiracy had been formed against her; for he was satisfied that those who had preferred these charges had done so fairly and honourably, and not with any calumniatory intention. But, without determining the question of guilt or innocence, to leave her majesty's character in its present state, would be derogatory to the dignity of the royal family and to the interest of the country, of which the dignity of the Crown must ever form an important part.

Mr. *Brougham* observed, that perhaps this was a question on which he ought not to say any thing, but, with the permission of the House, he begged to offer a few words. No man who had attended to the course of the proceedings in that House would accuse him of having shown any anxiety to press this subject on, or any disinclination to allow of any interval which might afford a chance of doing justice, without any further parliamentary investigation to the high parties implicated. On the contrary, from the moment the message from the Crown was presented to the House, he had intreated parliament to pause before it was too late. Parliament did listen to his advice by acquiescing in the motion which the hon. member had made at his suggestion. He had stated this much to remind the House that he had shown no disposition to precipitate the measure, but the reverse. He had implored the House to pause before it was too late. The period for pausing had now however gone by. With great submission to the noble lord, and to those who supported the amendment, it was now too late to stop. Whose fault it was, he would not pretend to say. The proceeding had, however, commenced, and it was too late to stop short. The House were well aware of what had passed elsewhere. The case had been opened. The whole of the facts had been stated certainly with a detail and particularity which he had seldom observed in any other case. Nay more. A witness—the chief witness—one whom they had all been expecting—one who was to prove almost the whole of the case, had been examined. His examination in chief had nearly ended; but he had not yet been cross-examined. Now, at such a moment, he could not conceive any proposition so untenable as to propose to parliament to stop. He could not conceive any thing more unjust towards her majesty, than now that the accusation had been promulgated, and a witness heard in its support, to propose to pause even before that witness had undergone any cross-examination. This would indeed be a most crying act of injustice. There was another reason why it would be peculiarly so. The House of Lords, on the present occasion, had acted on a different principle from that which they had adopted on any former occasion. On a comparatively trifling case, that of lord Melville, the House of Lords thought fit, doubtless with a view to the ends of public justice, strictly to prohibit the publication of a tittle of the evidence until the whole should have been produced; in the present delicate and important question, when so much might depend on the publication, their lordships had never taken a single step to prevent the disgusting details from being served up for the public palate, and presented, morning after morning, to the whole country. What the grounds were for this proceeding he could not pretend to determine; but it furnished the strongest reason for not stopping the proceeding. To stop it, would, in fact, be

the grossest outrage to justice. He did not impute any motives to the House of Lords; they were all honour and justice; the arrangement which they had made might turn out to be a just and wise arrangement, but it would be converted into a crying injustice against her majesty, if the amendment proposed by the noble lord were acceded to. He implored the House, therefore, not to listen to the proposition. On the merits of the great question itself, he would not say a single word. It would be time enough to discuss them, if, which he could not anticipate, they should hear any more of the proceeding in that House.

Lord F. Osborne consented to withdraw his amendment, and the House adjourned to the 18th of September.

HOUSE OF LORDS.

Tuesday, August 22nd.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act," &c.; and for counsel to be heard for and against the same; the counsel were accordingly called in.

Then *Teodoro Majocchi* was again called in, and further examined by *Mr. Solicitor General* through the interpretation of the marchese di Spineto.

You were mentioning yesterday, that you went with the Queen on the journey to Bavaria into Germany, did you go to Carlsruhe? I did.

Did you go also to Nuremburg, Vienna, and Treiste? I did.

Without asking you particularly as to the situation of the bed-rooms of Pergami and the princess, at each of the places at which they slept during that journey; to the best of your recollection were those rooms generally contiguous to each other, or having a direct communication with each other, or were they at a distance?

The Interpreter stated, the phrase used by the witness in his answer, may have a double meaning,—more near than far—or, more generally near than far.

Mr. Solicitor General.—Explain what you mean by the expressions you have just made use of, whether they were usually near or usually at a distance? Nearer than far, more near than far.

Did they usually communicate with each other? Yes, they did.

Were they generally separated from the rooms occupied by the rest of the suite? They were.

Who generally selected the apartments that is, the bed-room of the princess and of Pergami? They both made the distribution of the chambers; her royal highness and Pergami.

Did Pergami travel on that journey in the same carriage with the princess? In the journey to Bavaria, and to Genoa.

When you say that Pergami travelled in the same carriage with the princess, in the journey to Bavaria, do you mean also in the journey through Germany? I meant so.

Was it your business to prepare the carriages, and the things that were put into them? It was my duty,

Do you know in what particular part of the carriage Pergami usually sat during the journey? I do not remember.

Do you remember at any time in examining the carriage finding any bottle in it? I found one bottle.

Was that usually in the carriage on the journey, when the princess and Pergami travelled together? It was.

Will you explain the construction of the bottle, as far as relates to the opening, or mouth of it, was it large or small? About three or four inches in diameter.

Do you know from what you found from time to time in that bottle, for what purpose it was used in the carriage? It was for Pergami making water.

Do you remember being at the convent of Benedictines at St. Alessio? I do remember it.

Do you remember seeing the princess at breakfast there? I do remember it.

Did the princess breakfast alone, or did Pergami breakfast with her? She breakfasted with Pergami.

Do you remember upon that occasion anything being done by Pergami to the princess? I do not remember.

Will you mention at what place it was you quitted the service of the princess? At Pesaro.

In the whole, how long had you been in the service, as near as you can recollect? Nearly three years.

After you left the service of the princess at Pesaro, where did you go? To Milan.

Into whose service did you afterwards enter? The marchese Erba Odescalchi.

How long did you remain in Italy after you left the service of the princess at Pesaro? I do not remember.

As nearly as you can tell, state how long you remained in Italy after you left the princess? Four or five months; precisely I do not remember.

Do you remember at any time going with the princess to Pavia? I do.

At what inn did you lodge at that place? I do not remember the name of the inn; but it is an inn on the right hand of entering Pavia.

Do you remember, at any time when the princess was at Naples, Pergami being out on horseback, and the princess asking for him one evening? I remember it too well.

The interpreter was asked;—does the Italian word used by the witness mean very well, as well as too well? It means very well. I have translated it too well, because it was observed by the learned attorney general of her majesty yesterday, that it meant "too"; I should, upon my oath, translate it very well.

Mr. *Brougham* stated that he had been misunderstood.

Mr. Solicitor General. During the absence of Pergami on horseback, in the manner you have described, did the princess ask for him? She did.

Upon the return of Pergami after that ride, did you communicate to Pergami that the princess wanted him? I did.

Was the princess at that time above stairs in her bed-room? I do not know, because I was down below in the court.

In consequence of your having communicated to Pergami that the princess wanted him, did Pergami go up stairs to the bed-room?

Mr. *Brougham* submitted whether this question could be put as against Pergami, without evidence of the conduct of the Queen to bring them together.

The counsel were informed, that the question appeared to the House to be a leading question, and that it should be put thus: "To what place did Pergami go upon the communication being made to him?"

Mr. Solicitor General. After it was communicated by you to Pergami that the princess wanted him, where did Pergami go to?

While the witness was giving the answer, before it was interpreted, Mr. Brougham interposed, stating that it was irregular, as relating a conversation which had passed between the witness and Pergami.

The counsel were informed, that the question might be put.

Mr. Solicitor General. After you had communicated to Pergami that the princess had asked for him during his absence, what did he do, where did he go to? Into his own room.

After he had entered into his own room, what did he do as to the door? He shut up his door.

When you say he shut the door, what do you mean, that he merely closed it, or did he do any thing with the lock? He locked the door.

Do you remember how long Pergami remained there? Three quarters of an hour, or an hour.

Did you see the princess below stairs in the rooms during that period? I did not.

In the former part of your examination, being asked with respect to the position of the bed-room at the Villa d'Este, you said, that some change had taken place; did that change take place during the time they were absent in Greece? It did.

Do you know what was the relative situation of the apartments of the princess and Pergami at the Villa d'Este after her return from Greece, and after that change had taken place? I remember it.

Were those apartments near to each other, and was there a direct communication between them? Yes.

Were the apartments of the rest of the household at a distance? They were further.

Do you remember whether there was any door which being closed shut all communication from the rest of the House, from those apartments occupied by the princess and Pergami? Yes, when the door was locked, then nobody else could enter.

Do you recollect whether, for the purpose of forming this communication, any alteration had been made in any wall of any of those apartments? I do not remember.

Was there a theatre at the Villa d'Este? There was.

Did the princess act upon that theatre? She did.

Did she act with Pergami at that theatre? I have seen Pergami and the princess, but I have not remained during the whole performance of the comedy.

Upon your first arrival at the Villa d'Este, and your first residence there, was the princess usually visited by persons of distinction of that part of Italy? I do not remember.

Do you remember a person of the name of Mahomet, that was in the service of the princess? I do remember him.

What countryman was he? It was reported of Jaffa.

Did he come on board the vessel at Jaffa? Yes.

Did he remain with the princess at the Villa d'Este, during the whole time that the princess resided there? Yes.

Can you tell of any circumstances in the conduct of Mahomet; any exhibitions which he was in the habit of making; observing always not to mention them unless the princess was present?

Mr. *Brougham* submitted, that the princess and Mahomet should be first brought together, and then a question asked, What passed while they were together? in order to prevent the witness misconceiving the question, and forgetting the reservation.

The Solicitor-general stated, that he would endeavour to put the question so as to avoid all misconception.

Do you remember, on any occasion when the princess was present, Mahomet making any exhibition?

Interpreter. "Giuoco", the word the witness uses, signifies play, or motions, or game, or tricks.

Mr. Solicitor General. Was the trick, or whatever you allude to, one that he was in the habit of making?

Mr. *Brougham* submitted, that this question ought to be put with a guard; only those parts of his habit which were brought home to the knowledge of her majesty being receivable in evidence.

Mr. Solicitor General. Describe what this Giuoco was, to which you allude, before the princess.

[The witness snapped his fingers and bent his body, bending out his knees.]

Interpreter. If I am obliged to give the translation of that, it is a species of a dance, which is commonly performed in the east.

Mr. Solicitor General. Was any thing done by Mahomet, upon that occasion, with any part of his dress? He made use of the linen of his large pantaloons.

Describe what use he made of the linen of his large pantaloons, and what he did with it? He made the pantaloons go backwards and forwards [moving his person backwards and forwards.]

Before he began, or during the time of this motion, did he make any arrangement or any alteration as to his pantaloons; did he do any thing with the linen of his pantaloons or trowsers? This I do not know.

Describe this Giuoco from beginning to end; every thing that was done, as nearly as you can recollect; whether with his pantaloons, his turban, or any other part of his dress? [The witness made a motion.]

Interpreter. I cannot translate that, because it is a motion.

Mr. Solicitor General. Describe with accuracy what was done with the pantaloons or trowsers; how were the trowsers prepared? He made them strike forward; go backwards and forwards.

Did he do any thing to the trowsers with his hands, either at or during the time when these motions were going on? I have not seen it.

Was the position of his trowsers the same as usual? Always in the same state.

Do you remember upon more than one occasion this Giuoco being practised in the presence of the princess? More than once.

Was Pergami present also? He was.

The Villa d'Este was upon the banks of the lake of Como; did you ever see the princess upon the lake of Como with Pergami? Many times.

Alone, or with other people? Alone.

You have said that you have seen her many times upon the lake of Como, and you have also said that you have seen them alone on the lake of Como; have you seen them often on the lake of Como, or seldom? Many times.

Cross-examined by Mr. *Brougham.*

You have told us that you left general Pino's service; was not it on account of killing a horse, or something of that kind? No.

You never killed a horse at all? Never, never, oh never.

You never told any one that you had? Never, never.

What wages had you in general Pino's service? Fifty pence.

Interpreter. That is twenty-five pence of this country.

Per day? Yes.

Did you not find that enough, and leave the service on that account? I left the service at Mantua; during the blockade of Mantua I left the service of general Pino.

At the second table of the Queen's house at Naples, the table of the gentlemen, did not sir William Gell's servant sit also? I do not remember.

Do you remember another English servant of Mr. Craven, another of the gentlemen of her royal highness's suite, dining at that table? I do not remember that.

Had either of these two English gentlemen English servants at all in her royal highness's family? They had.

English servants? Yes; I believe they were English, because they always spoke English.

Were they livery servants, or servants out of livery? During every day they did not wear livery, but during a grand dinner, I saw them come home with livery uniforms.

Interpreter. Uniform is the translation of the word he used, but livery is his meaning.

Was it the duty of the ordinary livery servants of the household to wait upon her royal highness? At table, yes.

Was it their duty to wait upon her royal highness also at breakfast in the morning? No.

Was it not the duty of the upper servants, including the couriers, so to wait upon her royal highness? Yes, it was.

Do you know Hieronimus? Very well.

Do you know Camera also? Yes.

Were they couriers? They were couriers, because they wore the livery of couriers and rode.

In the princess's house at Naples, where did William Austin sleep? I do not remember.

Will you swear that he did not sleep in the next room to her royal highness? This I cannot remember.

What was the room next the room in which her royal highness slept? I have seen no other.

Where did Dr. Holland, her royal highness's physician sleep? I do not remember.

Will you swear there was no passage by which her royal highness could enter Pergami's room, when he was confined with his illness, except going through the room where you slept? I have seen that passage; other passages I have not seen.

Will you swear there was no other passage? There was a great saloon, after which came the room of her royal highness, after which there was a little corridor, and so you passed into the cabinet; I have seen no other passage.

Will you swear there was no other passage? I cannot swear; I have seen no other than this, and I cannot say that there was any other but this.

Will you swear that there was no other way by which any person going into Pergami's

room could go, except by passing through the cabinet? I cannot swear that there is another; I have seen but that; there might have been, but I have not seen any, and I cannot assert but that alone.

Will you swear that if a person wish to go from the princess's room to Pergami's room, he or she could not go any other way than through the cabinet in which you slept? There was another passage to go into the room of Pergami.

Without passing through the cabinet where you slept? Yes.

Where did Hieronimus sleep in this house? I do not remember.

Where did Camera sleep? Camera was not then in the service at Naples.

Where did sir W. Gell's servants sleep? I do not remember.

And you do not remember where Mr. Craven's servants slept neither, I take for granted? I do not remember.

Where did Demont sleep; the maid? I do not know.

Where did the other maids sleep? I do not know where the other members of the family slept.

Was it not a very severe accident which Pergami met with, from the kick of the horse? It was so severe that he could no longer go on horseback.

Was it not so much more severe than that, that he was confined to his apartment? I cannot say that, because I cannot have any knowledge of the illness.

Had you not so much knowledge of the illness that you were taken for the purpose of attending him in the illness, and made to sleep now for the first time in the cabinet next him? Yes; Pergami told me to put my bed to wait upon him.

You have said that he could not ride; did he go out walking during the accident? I cannot know whether he could walk.

Did you see him walk out every day as usual out of his room and into the streets? I do not remember.

Will you swear that during his illness you ever saw him walk out once? I do not remember to have seen him go out walking.

Did you ever go into his room during the time of his illness? I waited upon him.

In waiting upon him did you frequently go into his room? Often.

Did you find him there walking up and down the room? This I do not remember.

Was he attended by any medical man? I do not remember.

Did you not see her royal highness the princess of Wales go into the room of Hieronimus to ask after his health when he had had an accident which confined him? I do not remember.

Have you not seen her royal highness go into the room of sir W. Gell also, when he was confined with illness to his room? I do not remember.

Was it not the constant practice of her royal highness to go herself into the chamber of any of her suite who might happen to be ill, in order to see after their health and their treatment during that illness? I do not remember.

You never happened to be ill yourself at Naples? No.

Did her royal highness make any difference whatsoever in the attentions she paid between the upper servants, the gentlemen or ladies of her household, and the lowest of her attendants, during their confinement by sickness?

The *Solicitor General* submitted, that Mr. Brougham was assuming, as the bases of his questions, facts which did not appear at present to exist, which he conceived to be irregular, even in cross-examination.

Mr. Brougham was heard in support of the question.

The counsel were informed, that the regular mode of cross-examination, if it was meant to prove that her royal highness went into the room of Hieronimus when he was ill, was, the witness should first be asked whether he knew that Hieronimus was ill, and then the witness might be asked whether her royal highness went into his room.

Mr. *Brougham*. Were all the parts high and low, of her royal highness's suite, with the exception of Pergami, always in perfect health during the time they were at Naples? I do not remember.

Did Dr. Holland the physician never attend any body at all, during the residence at Naples? There was no other but Pergami during the time that I remember; Pergami was ill of that fall, the others I do not remember.

Do you mean to say that you do not remember any other person being attended by Dr. Holland, during the time that Pergami was ill in consequence of that fall? I do not remember.

What sort of a bed did you sleep upon in the little cabinet, while you attended Pergami? A mattrass.

It had no curtains had it? No; it was carried on the shoulders, and laid down.

When her royal highness went from Naples to Rome in March 1815, what English persons were with her? Dr. Holland; as far as I remember, Hieronimus.

Was not lady Charlotte Lindsay there? Was it a small lady; for I do not remember her name.

Was there one English lady with her royal highness or two, at that time? I remember to have seen one English lady; I had seen one, but the other I had not seen; the little thin one I had seen, and remember.

Did one or both of those English ladies go with her royal highness from Naples to Rome? Madame Falconet, the mother, and the two daughters; the mother was said to be the wife of Falconet, the banker of Naples.

Was Mrs. Falconet an English lady? I do not know.

Did she always talk English? She spoke rather French, but I never heard her speak English; I do not know whether she spoke English, but she always spoke French.

Did you ever see these two young ladies, these daughters of Mrs. Falconet's, in the princess's house with their mother at Naples? At Naples I do not remember to have seen them.

Did you see them any where else in the princess's house? I have seen them on the journey; when we began our journey from Naples to Rome.

Then is it not true that Mrs. Falconet did take her daughters to Rome with her? Yes.

About what age were those two girls? I do not remember.

Were they young children or young ladies?

[The witness made an answer, upon which the interpreter stated, that it was apparent the witness did not understand the question.]

Mr. *Brougham* desired, that that which he had stated might be translated.

The counsel were informed, that it was the wish of the House, that the witness might not be interrupted, in giving that which he might conceive to be an answer; but might finish any thing he had to state, it not being the intention of the House to impute blame to either interpreter or counsel, in respect of such interpretation as had occurred.

Were they young children or young ladies? Yes; ladies.

Did you see lady Charlotte Lindsay, or any other lady besides madame Falconet, with her royal highness, after she left Naples? I do not remember.

Did you ever see more than one English lady in the household of her royal highness at the same time? I do not know; I do not remember.

Mr. Brougham desired, that the expression might be translated "I do not remember."

The Interpreter stated, that there were different meanings to the expression "*non mi ricordo*," and submitted, that if he was wrong, the interpreter for her majesty might be the person to correct him, and he requested might correct him in any thing in which he might err.

Then Benetto Cohen, the interpreter on behalf of her Majesty, was asked—How do you translate the Italian words, "*non mi ricordo?*" "I do not remember." What is the Italian for "I do not know?" *Non so.*

The interpreter submitted, that he might be at liberty to ask the witness "what he meant by those words when he used them?" which being permitted by their lordships, the question was so put by him to the witness?—That, I do not recollect to have seen that.

Mr. *Brougham.* You gave us an account yesterday of having knocked one night at Pergami's door at Genoa so loud that he must have heard you, and that he gave no answer? I did.

What sort of people were they who had come into the house that night, that made you go and knock up the baron—knock up Pergami? It was when that theft was made.

Do you mean to say that robbers had broken in, or threatened to break into the house?—Robbers had gone into the house.

Was not the alarm given that it was part of your friend Ompteda's gang; was not that the alarm in the Queen's house?

The *Solicitor General* objected to the question, as assuming there was a person of the name of Ompteda, and secondly, that he was a friend of the witness; and also assuming that there was a gang of which the friend of the witness was a party.

The counsel were informed, that that question appeared to the House irregular, and such as ought not to be put.

Mr. *Brougham* stated, that he had put the question in that form to save time, but would put it with more minuteness. Did not somebody that night come and attack a window of the house? Yes, some thieves.

Did not you yourself go to the window on that occasion? I opened the window, and saw a tall person before me; I took a gun and fired upon this person, that fellow; I saw no more than one, and I fired upon those persons; they ran away.

The counsel were directed to withdraw.

It appeared that sir William Gell, who was ordered to attend as a witness, was in the House, and had been so during a part of yesterday. The counsel were again called in, and informed that it was the desire of the House, that in future no person shall be examined as a witness, other than the members of the House, without leave of the House, who has been present during the examination of any other witness or witnesses.

Mr. *Brougham* stated to their lordships, in excuse for sir W. Gell having been present, that he had excepted those persons who were in official attendance, and that sir W. Gell was in official attendance upon her Majesty, but that he had now withdrawn, and would not in future be present.

Mr. *Denman* stated, that lord Llandaff was ordered to attend as a witness for her majesty; that he had applied to the Attorney General for his consent for his lordship to be present; that as that consent might not be sufficient, he now begged to apply to the House for permission for lord Landaff to be present.

The counsel were informed that any Irish peer had a right to be present; and that the resolution was not intended to exclude any Irish peer, or others, who had a right to be present.

The *Attorney General* requested to be informed, whether the rule was intended to apply to those who were professionally engaged on either side, or whether it would be necessary to hand in to their lordships, a list of those gentlemen necessarily attendant on

each side, so as to come within the rule laid down.

The counsel were informed that it could not be intended to include those professionally engaged, and they were directed to hand in a list of those (counsel, attornies, and their clerks) whose attendance was necessary on either side.

[The examination of the witness then proceeded.]

Mr. *Brougham*. After the robbers had attacked or threatened the house, and you had fired upon them in the way you have described, was not the whole house alarmed by what had taken place? I immediately ran to knock at the door, and then in going down stairs I found that all the people had collected, or were coming down stairs.

Did you see any one of them with a drawn sword in his hand upon that occasion? I cannot remember that.

Was captain Hownam there upon that occasion? I do not remember whether he was there.

Was Hieronimus? It was all the family, but I cannot say individually whether those persons were there.

Did you see Pergami there? Yes, Pergami was there, I saw him.

How long after the first alarm was it that you went to knock at Pergami's door? I went to knock at the door.

How long after the first alarm was it that you went to knock at Pergami's door? Three minutes.

Three minutes after you had fired the piece? Yes.

After knocking at Pergami's door, and not finding him there, did you open the door to see whether he was in the room, or not? No, I did not open the door, but Pergami came out about a quarter of an hour after; a great noise was made, and then he came out.

Where were you at the time that Pergami did what you are pleased to call, come out?

Interpreter. I cannot put the question in that way, what you please to call, come out; I can put it, when he came out.

Mr. *Brougham*. Where were you when Pergami did what you call, come out? I knocked at the door, received no answer, and went down stairs, and then all the family was coming out; and then I saw Pergami come out in about a quarter of an hour afterwards.

Then first you fired upon the robbers, then, three minutes afterwards, knocked violently at Pergami's room, then you went away, and a quarter of an hour after that the house were pleased to take the alarm, and all to come out?

Mr. Solicitor General objected to this question, as an incorrect statement of the answer.

Mr. *Brougham*. How soon after you fired the piece did you see Pergami, and the rest of the household come out? I fired, ran to the room of Pergami, knocked, and received no answer; went back again to the place where I had fired, the family collected, and I called and said, robbers, robbers, we have robbers in the house; I remained there, and then the people retired.

How long were you knocking at Pergami's door? I remained a long time, and I knocked very loud, louder and louder.

Did you go below from Pergami's door?—I went down to the same room where the robbers had been.

Where did you first see Pergami after that time? In the same room to which I referred, and where the thieves had been.

You have said, that the princess went almost immediately from the Grand Britannia at Venice, to a private house in the neighbourhood? Yes.

What was the room next to the Queen's room in that house? There was a great saloon, and in the corner there was a room which led into the bed-room of her royal highness.

Was there another room on any other of the four sides of the princess's room? There was on two sides a window, and on the third side there were other rooms.

Was there not a room used for a sitting-room on the side you are now speaking of, which opened into the Queen's room? I do not know what use the room was put to.

Where did Hieronimus sleep? I do not remember.

Beyond those rooms which you have described, and of which you say you do not know the use, was there a staircase? I do not know, I have not seen any staircase on that side.

Where did William Austin sleep in this house? I do not remember.

Where did captain Hownam sleep? I do not know.

Was he with the Queen at Venice? He was.

Was William Austin? He was.

Hieronimus? He was.

Camera? No, he was not there.

Was Victorine, Pergami's child there? I do not remember.

Did Victorine, the child, always sleep in the room with the princess? Where.

After the time that the child Victorine came to be in the house with her royal highness, did she generally sleep in the same room with the princess? I do not know.

Do you know of her sleeping in any other part of the house? I cannot know that.

Did you ever see her sleeping in any other part of either the house or the ships? I do not remember; she slept under the pavillion with her sometimes.

Interpreter. I do find it difficult to make myself understood; the witness is frightened out of his wits; he does not understand the most common words; I cannot make him understand the question.

Mr. *Brougham*. Will you swear that you ever in your life, saw Victorine sleep in any

other part of of the ship or house, except where the princess was? Sometimes she slept under the pavilion, where was the bed with her royal highness; sometimes she slept down below, in the room of her royal highness, and sometimes she slept with the dame d'honneur.

Whom do you mean by the lady of honor? The countess Oldi.

Who besides yourself, do you know, ever saw Victorine sleeping out of the room where her royal highness slept? That I do not know.

Did you ever yourself see Victorine in a room, and in a bed where her royal highness was not to sleep that night? I have never seen it.

Did Mr. Burrell, an English gentleman, go to Venice with her royal highness at the time you have spoken of? I do not remember.

Do you ever remember having seen a gentleman of that name in her royal highness's family, for any length of time? Yes, a short young man.

When and where? At the Villa Villani, when we were there, and also at Milan and the house Boromeo.

Where did he sleep at the Villa Villani? I do not remember.

At the Casa Boromeo? I do not remember.

At Venice? I do not remember there also.

The second time when you went back to Genoa, was not the arrangement of the rooms the same as usual with respect to the princess and Pergami? The princess did not stop at Genoa only once; she merely embarked there when she came from Naples the second time, she went immediately on board the ship.

Have you ever seen the Villa d'Este since the time you came back from the long voyage? I have.

Was the position of the rooms the same as it had been before with respect to the Queen and Pergami? They were not in the same situation as before.

Was there not a stair-case or a landing-place of a stair-case on one side of the princess's room on her return? A small corridor.

Was there a sitting-room on the other side of it, not opposite, but on one of the other sides of it? There was a small corridor, on the left of which there was a door that led into the room of the princess, which was only locked; and then going a little further on in the corridor there was on the left hand a small room, and opposite to this small room there was another door which led into the room where they supped in the evening.

Did not that room communicate on the one side with the princess's room, and on the other side with the room where the maids slept? There was this supping room on the right, there was a door which led into Pergami's room, and on the same right hand of the same room ther was a small alcove, where there was the of Bartolomeo Pergami.

How many doors were there in the small sitting-room where they supped? I saw two doors open always, but there was a third stopped by a picture.

Where did her royal highness's maids sleep? On the other side, in another apartment.

Where did Mr. Hownam sleep? I do not know.

By what passage did the maids get into her royal highness's bed-room, for the service of the chamber? Through the small corridor.

Into which her royal highness's room opened? They could go this way, through the small corridor.

Upon the journey, when her royal highness used tents for resting in, you have said that her practice was, to travel by night, and to rest during the heat of the day? Yes.

Did her royal highness ride upon that journey? She rode on horseback.

About how many hours was she on horseback, generally speaking, in the course of the night? She mounted her horse in the evening at the sun-set, and travelled all night, till the rising of the sun.

It is not asked as to half an hour, or even an hour, but about how many hours was she on horseback during the night? I do not recollect.

Was she four hours? She mounted on horseback in the evening when the sun-set, and dismounted in the morning when the sun arose; but I had no watch, and I do not know the length of time.

Will you take upon you to swear, that she did not frequently ride in this manner as much as eight hours without stopping? I do not recollect.

Was not her royal highness extremely fatigued when she dismounted in the morning from those rides? It was said, that she was very tired, and she immediately went to rest herself on the Turkish sofa.

Was she very much fatigued during the last hour or two of those rides before dismounting? I cannot recollect that.

Have you not seen, during the last hour or two of those rides, her royal highness obliged to have persons supporting her on horseback, from the excess of her fatigue? I do not recollect.

Was it not her royal highness's practice upon those rides, the instant she dismounted from horseback, to throw herself upon the sofa for repose? After she dismounted from her horse, she threw herself upon the sofa, because she was tired.

Have you not yourself slept or rested yourself between the inner and the outer of those two tents where her royal highness reposed during the day? Yes; I and Carlo.

Was not this the regular place of rest both for you and Carlo at such hours? I slept on one side and Carlino slept on the other, because it made two tents; and in the interstice

of those two tents on one side I slept, and on the other side Carlino.

Does Carlino mean Camera? It was said that he was a nephew of Bartolomeo Pergami.

Was he one of the servants? He wore livery, as I did.

What sort of sofas were they that were put under the tent on those occasions; was not one an iron bedstead, and the other a sofa? There was first a Turkish sofa, or rather a sofa placed by the Turks, and then I placed an iron bedstead.

Are you understood rightly that no bed clothes of any sort were put upon the sofa? I do not remember that.

Was not the sofa put down in the same state in which it was carried, like a common sofa in a room? Yes; in the middle of the Pavilion was a pillar or column, and the sofa was placed close to it.

Was it not in every other respect as sofas are, which are placed in rooms? It was a sofa; I have not paid particular attention; I know it was a sofa.

On the iron bedstead did you not place a mattress to make it more soft to lie upon? A small mattress which did belong to the small iron bed.

Was it not a mattress, cased in leather, a leathern mattress? I do not remember.

Used you not to place it; was it not your office to put it there yourself? It was my office, together with Carlino, to place the bed.

Those were the same beds; the sofa and the bed that were used underneath the tent on board the Polacca, were they not? There were two bedsteads, one that was in a trunk, and the other folded up in a bundle; but I do not remember whether it was that in the trunk, or that in the bundle.

Were they not exactly of the same kind? That of iron, which was made in a bundle, was a very little larger; and the other, which was in a trunk, was a very little smaller.

Was not the sofa the same that was used on board the Polacca under the Pavilion? I do not recollect whether it was the same or not.

If it was not the same identical sofa, was it not a sofa so like in every respect that you might easily take one for the other? I cannot say.

Was it not her royal highness's constant practice upon the voyage to throw herself down for repose in the middle of the day without taking off her clothes? To this I paid no attention; I made no observation.

Will you take upon yourself to swear, that during the whole of that voyage, the princess ever took off one stitch of her clothes? If you speak so, I shall understand you; after her royal highness had dismounted from the horse, she undressed herself to rest herself.

What part of her clothes do you mean to swear that her royal highness took off for that purpose? The upper gown; the upper garments.

Do you mean to say that her royal highness took off her gown, or a sort of surtout or cloak, in which she had been riding? I do not recollect.

Was there not a cloak which her royal highness was accustomed to throw over her the moment she dismounted, for the purpose of resting in it? I do not recollect that.

Did her royal highness put on a mantle when she mounted in order to pursue her journey? I do not remember that.

Were there sheets and blankets upon the sofa under the tent, in which a person taking off their clothes could go to bed, as is usual in Europe? I placed the bed, and then I placed some feather pillows, and then I retired.

You did not put any sheets or blankets, or coverlid and sheets, did you? I do not remember.

Was it not exactly the same used for sleeping under the tent on board the Polacca afterwards, during the sea voyage? I do not remember; I know that there were beds or cushions, but I do not know whether the beds were made whether to get into or not.

Will you swear you ever saw, either on the land journey in Palestine, or on board the ship during the voyage, one stitch of common bed clothes, sheets, blankets, or coverlids upon that bed? This I do not recollect.

Who except yourself and Carlino ever made those beds, either on the land or sea voyage? I do not recollect any other who did it.

Have you not sworn it was you and Carlino whose duty it was to make those beds? Yes; when we arrived under the tent I placed the bed, and then I went out.

You have told us how and by whom the bed was made at night, who removed the beds in the morning on the voyage? I do not remember.

Will you swear that it was not yourself? I do not recollect. In the evening I was ordered to make the bed, and I carried the cushions; then in the morning I was called and took away the cushions; for it was not a matrimonial bed, a large bed, a real bed, but they were merely small cushions which I placed where people could rest.

Did you ever happen to see Billy Austin, William Austin, rest under the tent in the same way on the voyage, or on land? I do not recollect.

Did you ever see Hieronimus rest in the same way in the tent? I do not recollect.

Will you swear that they both of them have not so rested in the tent? I do not recollect.

In the room below the cabin on board the polacre, where did Hieronimus sleep in general? I do not recollect.

Where did Mr. Hownam sleep?—I do not recollect.

Where did William Austin sleep? I do not remember.

Where did the countess Oldi sleep? I do not remember.

Where did you yourself sleep? On a sofa in a room where they dined.

Did not Camera sleep in the same room on another? Camera was not a servant there.

Was Camera on board the ship? He was on board the ship, but he was not a servant.

Where did he sleep? I do not know where he slept.

But you swear that you yourself slept on a sofa in the dining-room? Yes; whenever I felt myself sick or unwell I went down below; but when not, I slept there; generally I slept there.

Where did the maids sleep? I do not know.

Where did captain Flynn sleep? I do not know.

You know there was one English sea officer on board the vessel, as well as captain Hownam? Yes.

The whole of the voyage? Lieutenant Flynn was on board the polacre Caroline, during the whole voyage.

Was he not in her royal highness's suit in her royal highness's land journey, as well as the sea voyage? I do not remember that.

Will you swear that lieutenant Flynn was not on the land journey with her royal highness to Palestine? This I do not recollect.

About what aged man is Lieutenant Flynn? I cannot tell.

Is he a very young man, or a man of about thirty? I cannot recollect.

Is he older or younger apparently than lieutenant Hownam? This I cannot recollect.

Have you ever seen him in her royal highness's suite, except during the long voyage? I do not remember.

Did you ever see him in your life with her royal highness at the Villa d'Este, or the Villa Villani, or any of the other palaces her royal highness inhabited? I cannot remember.

Have you the least doubt in your mind, that captain Flynn never was in her royal highness's service regularly when on shore? I do not remember either yes or no; I do not recollect at all of this.

When did you see captain Flynn for the last time? I do not remember.

About what time? On the return from the voyage to Egypt, I remember he was on board about Syracuse, or at Syracuse.

And you do not recollect having ever seen him since? I do not remember to have seen him after that.

Were you ever sea-sick on the voyage home from Jaffa? Whenever I am on board a ship, I am more unwell than well.

His majesty's attorney general submitted, that this was not a proper translation of the words of the witness, but that the interpretation was always, or almost always.

The counsel were informed, that in case any doubt arose whether the interpretation was correct, it must be explained by the interpretation of the other interpreter, who was sworn; for that there was no person in the House, or at the bar, who had a right to give any interpretation.

Mr. *Brougham* to the Marchese.—Give us in Italian, the very words the witness said? He answered "sempre," and in the same breath, he added, "le piu parti," and that as far as I can collect it is, for the most part I was more sick than well.

Then when you were unwell, you went below did you not? Sometimes I threw myself on the cannon, sometimes I threw myself on the sofa, sometimes I was down, and threw myself wherever the sickness surprised me.

Did you not, when you were ill during the voyage, sleep below under the deck? Under the deck.

In the hold? Yes, at the bottom of the ship,

Have you not been frequently, during the voyage, for days together, when you never made your appearance on the deck at all? When I was unwell, sometimes I was a day or two without coming up; when I was unwell I was sometimes a whole day without coming up.

Will you swear you have not, during the voyage, been kept down by illness for more than two whole days together? I was whole days together without coming up.

Do you mean that you were whole days together? For instance, in the morning I fell sick, and I remained below till the next morning.

Will you swear that you have not been more than two days without ever coming up at all? I was ill one day and one night; for instance, this morning I fell ill, and I remained ill till next morning.

Will you take upon yourself now to swear, that you never, during the whole voyage, were more than one day and one night together without coming above upon deck?

Interpreter. I cannot translate it, with the utmost submission to your lordships, to make the sense of it so as for the witness to understand. It is impossible for me to translate it literally; if I had a man of talent by my side, I would do it, but I cannot do it with this witness.

Their lordships directed that the question should be put by the other interpreter.

The question was repeated through the interpretation of Mr. Cohen.

Yes.

The examination proceeded through the interpretation of Mr. Cohen.

Do you mean that you swear that you never were more than four-and-twenty hours together without going upon deck? Yes.

More than four-and-twenty hours following each other? From one morning to the other.

During the time that you were on board ship, did they not keep watches as is usual upon deck? I do not remember.

Were you the only person upon deck at that part of the ship where the tent was placed, in

which her majesty slept during the night? I did not sleep upon deck.

When you saw the tent placed for her majesty to sleep in, and left at night to go below, were you the only person on deck at that time? This I do not remember.

Were there no sailors on board this ship? There were.

Did those sailors never come upon deck? This I do not remember.

Did those excellent sailors always remain below in the hold with you? This I cannot remember, if they slept in the hold during the night-time or went up.

Do you mean to represent that the ship was left to go alone the whole of every night without any sailors being on deck? I cannot know whether the sailors were down in the hold or upon the deck while the vessel was a-going during the night.

Did you not see the sailors upon deck during the day? Yes, they were at work in the day-time.

About how many sailors were there on board this ship? I do not know the number.

Were there four? I do not know the number.

Will you swear there were not two-and-twenty? I cannot swear.

About what size was the ship? I cannot give an account of this vessel, because I have no knowledge of ships.

So that whether there were two sailors on board this ship, or two-and-twenty, you will not take upon yourself to swear? No, no, no; I cannot tell.

Was there a captain? Yes, the owner of the ship.

Were there any other officers belonging to the ship? I cannot tell; I do not know.

Who slept in the place where you used to sleep down below in the hold? I know very well that I slept there, but I do not remember who else.

What part of the ship was it regular and customary for the livery servants of her royal highness's establishment to sleep in on board the ship? This I do not know.

The livery servants of the suite? This I do not remember.

Were you not yourself a livery servant? Yes.

Where did the padrone of the vessel sleep? I do not know.

How many masts had the vessel? Three.

Will you swear that it was not a ship of 800 tons? I have no knowledge of ships, and I cannot say.

When her royal highness slept below, had she not a room in the inside, beyond the dining-room? This I do not remember.

When her royal highness was going by sea on her voyage from Sicily to Tunis, where did she sleep? This I cannot remember.

When she was going afterwards from Tunis to Constantinople on board the ship, where did her royal highness sleep? This I do not remember.

When she was going from Constantinople to the Holy Land on board the ship, where did she sleep then? I do not remember.

Where did Pergami sleep on those three voyages of which you have just been speaking? This I do not know.

Where did you sleep yourself? I went below.

Do you mean in the hold? In the hold.

Were you ever yourself in the room in the vessel where the princess used to dine? Yes.

How many doors were in that room? This I do not remember.

Do you not know that there were two rooms which entered out of that inside? This I do not remember.

Was not the bath taken always when taken in the dining-room itself? Not in the dining-room, but in the room next to it.

What do you mean by the room next to it? A small room.

What do you mean by the other small room; where was that placed? Another small room that was on one side.

Do you mean, that after you entered from the fore part of the vessel where every body slept, into the dining-room, that within the dining-room there was another small room entering into it? As soon as you enter the dining-room, there was a small room where the princess took the bath.

Their lordships having expressed a doubt whether the answer to the question had been rightly translated, it was translated as above by the marchese di Spineto, which was assented to by both sides, as being the correct translation. The interpretatoin proceeded through the marchese di Spineto.

How often will you swear that her royal highness took the bath during the voyage? I can swear to twice; she might have taken it more, but I remember only two times.

Was it Pergami's office to prepare the bath for her royal highness? This I do not know; but I believe not.

Whose office in her royal highness's household was it? This I do not know.

Was it your office? I was ordered to carry the water into the bath.

Did you carry the water into the bath, or only to the door of the dining-room? I was ordered to make the bath, and I filled the bath with water about one-half; then I called Pergami, he came down and put his hand into the bath, to try the temperature, and then he told me to get ready some more water, and to give it him, in case it should be wanted.

When you were there, and put in the water first to make it half-full, and called Pergami down to see whether it was of the right temperature, was there any-body else in the room but Pergami and yourself? No one else.

Did you not then retire, and leave Pergami to see whether the bath was rightly prepared or heated? After I had called Pergami, and he had thrust his hand into the water to try

the temperature, I was told to go and get some more water, hot and cold, that I might give it to him in case it was wanted.

In this dining-room was there not another room opening into it, besides the room where the bath was? I do not recollect.

Will you swear there were not two, one belonging to the princess, and the other belonging to the countess Oldi? This I do not remember, whether there was any other door.

But you will swear that Camera did not sleep there? No.

Maurice Camera? I never saw him sleep there.

Did you ever see Maurice Camera upon the voyage at all? I do not remember whether he slept there.

Was he not on board? He was on board.

Was he not on board, and was he not with her royal highness during the whole of the long voyage? Yes; but I do not remember where he slept.

You will not swear he did not sleep in that very dining-room? No I cannot swear that.

Was he not with her royal highness during the whole of the land journey, as well as during the voyage? He was.

Was he not a page and courier? I remember he was a courier, but I do not know that he was a page.

Camera was no relation of Pergami, was he? This I do not know; I cannot know.

You have told us that another, Carlino, was, because he was said to be a relation of Pergami's; was Camera said to be a relation of Pergami's in the same way that the others were said to be? This I never heard.

What number of maids had her royal highness with her, upon the long voyage? There were mademoiselle Demont, Brunette, and the countess Oldi.

How long is it since you have seen Demont? At Naples.

You have never seen her since you saw her at Naples; where did you see her last? At Pesaro, when I left the service of her royal highness.

You have never seen her since that? Never.

Do you know where she is now? No; I have never seen her since.

Perhaps you do not know whether she is dead or alive? I cannot know it.

Have you never heard of her since you left her at Pesaro? Never.

Have you never heard her talked about since you left Pesaro? No.

Have you never heard her name mentioned since you left Pesaro? I have never heard it.

Have you never heard Sacchini talked of since you left Pesaro? Yes, I have heard his name mentioned.

Have you not seen him too? I have spoken to him once on the piazza of the cathedral of Milan.

Have you never seen him since? I do not remember to have seen him after that, I do not remember to have spoken to Sacchini; it is possible, it may be, that I may have done it, but I do not remember.

You said yesterday you had seen the princess and Pergami at breakfast together? Yes.

Who saw them at breakfast besides Hieronimus and yourself?

The Solicitor-General objected to the question, as assuming that the witness had said that Hieronimus had seen them at breakfast together.

Mr. *Brougham.* You saw them yourself? Yes.

Hieronimus was there too, was not he, at the same time? I do not remember.

Was the countess Oldi present? I do not recollect.

Was not Hieronimus present one of the times you saw the princess and Pergami together at breakfast? I do not recollect whether Hieronimus was present.

Who was by at the time that you saw Pergami salute her royal highness, upon going to do some business for himself in Sicily? I had seen nobody else but myself, the princess, and Bartolomeo Pergami.

Who was present besides yourself at the time that Pergami saluted her royal highness on landing, on account of the quarantine at Sicily? There was nobody but myself, the princess, and Pergami; I had seen nobody else.

Was it not on the deck of the vessel, after dinner, that this happened? Under the deck, before going up to the deck.

Was it not after dinner? Yes.

Where had they dined? I do not remember where they had dined, but I know it was after dinner.

Was it not in the room in which they had dined that this took place? It was in the dining room; the princess was there, and there came Pergami to take his leave about his departure.

Have you not represented yourself to have been in the same room at the time? I was present.

When her royal highness slept in the tent on deck, did she burn a light during the night?—She did not burn a light.

Have you ever been at the Villa d'Este since you quitted her royal highness's service? Yes, I have been; after Pesaro, I went to the Villa d'Este.

Did you go to the Villa d'Este straight from Pesaro? I went straight forward from Pesaro to the Villa d'Este.

How long did you remain there? I do not remember the time.

Was it days or weeks?—I think days, but precisely I cannot tell the number of days.

Have you ever been there since that time? I have been there a second time.

How long after that first time was it?—I cannot recollect.

Was it month or weeks? I do not think it was past months.

Did you ever apply to be taken back into

the service of her royal highness after you left it? I do not remember.

Did you ever apply to count Vassali to be taken back? I do not recollect.

Did you ever apply to baron Pergami to be taken back? If I well recollect, never.

Did you ever make application to Louis Pergami, or any other of the Pergami's to be taken back? I do not recollect it.

Did you ever apply to Mr. Schiavini to make interest for your being taken back? Once I did.

When was that once? At the hotel of Italy.

About how long after you left Pesaro was that application? I do not remember.

Was it a week after? More than months.

Will you not swear it was half a year? I cannot recollect the number of months, how many there were.

Did you ever write a letter to be taken back?

The Solicitor General objected to the question.

Mr. *Brougham*. Did you ever write a letter to Bartolomeo Pergami, or Schiavini, or Vassali, after leaving her royal highness's service? Never: because for my misfortune I know very little to write.

Did you ever make any other person for you write a letter to Vassali, Schiavini, or the Pergami's, after you left her royal highness's service? Never, as far as I recollect.

When you made application to be taken back at the Albergo Italiano, some months after you left the service, were you not refused to be taken back? I do not remember whether it was answered yes or no.

Were you, in point of fact, taken back to the service of her royal highness? No.

Have you ever been taken back since in point of fact? After I left the service of her royal highness, I never again entered into her service.

Was not Schiavini with her royal highness upon the whole of her voyage to the east, the long voyage? He was on board.

Was he not on shore too, during the journey? And he also came on shore during the whole time of the journey.

In the journies by land which her royal highness made, did not madame Oldi, and the child Victorine, travel in the same carriage with her royal highness? I do not remember.

Was Billy Austin, William Austin in the same carriage with her? I do not remember that ever he was.

Whose house did her royal highness occupy when she was at Carlsruhe? This I do not know.

Was it in an inn or a private house? I believe it was an inn.

Was it not an apartment in an inn which the English minister had given up to accommodate her royal highness? This I do not remember.

Were William Austin and madame Oldi, and Victorine, upon that journey, and at Carlsruhe with the princess? I do not remember.

Will you take upon you to swear that they were not at all there with her? They were on the journey.

Were they not on that journey during the whole time? They were.

Did they not go wherever her royal highness went on that occasion? Yes, they followed her.

Was that not a journey which her royal highness undertook to pay a visit to her relation the grand duke of Baden? Yes, I remember we set out on a journey to Baden.

Did the elector wait upon her royal highness at Carlsruhe, and did her royal highness go to the court of Baden? This I do not remember precisely.

Do you mean to say that you do not remember whether or not her royal highness, when she was at Baden, went to court at all? Her royal highness went to court.

Did the grand duke wait upon her royal highness at her hotel? This I cannot assert; I do not know.

Was the English ambassador seen with her royal highness at that place? This I do not know.

Do you happen to know the name of the English minister at that place at that time? I do not recollect it.

You have described a change being made in the Villa d'Este during the long voyage, was there not a new wing built to the villa during that time? I do not remember whether a new apartment had been built.

Do you mean to represent to this court that you do not recollect whether a new building was entirely added to the Villa d'Este during the time that you and your mistress were in the East? I do not remember whether they had erected a new building.

But you perfectly recollect the little alteration in one of the doors of the rooms.

Mr. Solicitor General objected to the question, as assuming that the witness recollected a fact which he had stated he did not recollect.

At the time that those sports were performed by Mahomet, was not Dr. Holland present as well as her royal highness the princess of Wales? No, I have not seen him.

Will you swear that Dr. Holland was not then present? No, I have not seen him.

Must you have seen him if he had been there? I have not seen him.

Will you swear that lieutenant Hownam was not present when Mahomet played off those tricks? I have not seen him; that which I have seen I say; what I have not seen, I say, no.

Who else was there besides yourself and the black performer, and her royal highness herself? I have not seen any body else. I have seen the princess, Pergami, and Mahomet with my own eyes.

Whom did they send for Mahomet on that occasion; were you the person sent to bring Mahomet on that occasion to perform? This I do not remember.

Were you so placed that her royal highness saw you at the time as well as Mahomet? I was in such a position, that when Mahomet played his tricks, her royal highness did not see me, but Mahomet saw me, and Pergami saw me.

Was it in a room? No, in a court.

Were there any windows looking into that court? There were all the windows of the apartment.

Where were you placed? I was near the door which leads to the lake.

Were you in the court in which Mahomet was? On the door, that leads to the lake.

Where was her royal highness? At the window of her bed-room, or the cabinet, precisely I do not recollect.

Where was Mahomet? He was coming out of the door of the stable alone.

Did Mahomet stand in the court to perform those tricks? Near to the window of her royal highness.

Was the back of Mahomet turned to you? I was by his side; Mahomet was looking at her royal highness.

You were at the same side of the court at which her royal highness was looking out of her window? I was on the same side, for Mahomet was on my left; Mahomet was looking at the window of her royal highness, and this was near the door leading to the lake.

You were at the door on the same side of the court on which her royal highness was looking out at the window? No; her royal highness was on one side of the door, and the lake on another.

Were you on the side opposite to the side where her royal highness was? For instance, that was the door of the stable, that (at right angles) was the window from which her royal highness looked in the court, and I was at the door of the lake, which was that way (at right angles).

From the position in which you stood on the side of the court, you could see her royal highness? More than seeing her; for I was at that door there, and I saw her royal highness at that window there (describing them).

Did not you swear that her royal highness could not see you at that door? Yes, she could see me, but I do not know whether she did see me.

Who ordered this Mahomet to come and perform those tricks upon that occasion? I do not know.

Then for any thing you know, there might have been some persons in the same room with her royal highness, standing a little way behind her? I could not see; I saw her royal highness looking out at the window, but any other people I could not see; she put her head out at the window, to see this Arabian play these tricks.

Did you never see this Arabian play these same tricks on any other occasion? I saw him at Barona.

Was her royal highness present upon that occasion also? With Pergami.

Any body else? The people of the family.

Men as well as women? Footmen, coachmen, kitchen people, scullions, who were there to look at it.

When you left her royal highness's service, you have told us you first went into the service of Odescalchi? Yes.

Were you in her royal highness's family at the time the affair of the baron Ompteda happened?

The Solicitor General objected to the question, as assuming that some affair had happened, in which the person styled baron Ompteda was concerned.

Mr. *Brougham.* Did you ever see the baron Ompteda? I do not remember that name.

Did you ever, during the year after the long voyage, see a German baron dining at her royal highness's at the Villa d'Este? In the house Villani, I saw him.

Then you do know a certain German baron, who used to visit her royal highness. He was a Prussian.

What was his name like, as nearly as you can recollect? I do not remember the name, because it was an extraordinary or unusual name, but he was called the baron, baron, baron, something.

Was this baron, whatever the extraordinary name might be, very frequently at her royal highness's house? Yes, I remember myself well; that I can swear he has come twice to the house Villani.

What makes you recollect this baron coming there? This I do not know.

Was there any affair happened in the princess's family—any thing that made a noise in the family, connected with this baron whatever he was? This I do not remember.

During the time you were in the service of her royal highness at the Villa Villani, or the Villa d'Este, do you recollect any blacksmith or locksmith being examined there with respect to picking of locks? This I do not remember.

Or about making false keys? This I do not remember.

You never heard of any such thing in the family while you were there? This I do not remember to have heard; I do not remember it.

Do you remember no quarrel taking place between lieutenant Hownam and this German baron while you were there? I have heard that they had quarrelled together, but I do not know the cause of the quarrel.

At about what time did you hear this about the quarrel? I do not remember.

Was it before or after you came from the long voyage? This I do not remember.

About how long? I do not remember.

About how long was it before you left her royal highness's service, was it years, or months? I do not remember these things.

Do you mean to say you cannot remember whether it was a week or two years before? I do not remember the time.

Do you recollect what company used to come to the theatre at the Villa d'Este, where you state her royal highness acted twice? This I do not know.

Did you ever see the prefect of Como Tamasia and his lady attend that theatre? This I do not remember.

Professor Mocatti, of Milan, did you ever see him there? I have seen the professor Mocatti there.

Do you mean visiting at the villa, or at the theatre? I have seen him come and pay a visit, but in regard to the comedy I have not seen him.

Did you ever see general Bubna the Austrian commandant, there, with his lady? Whether she was his wife I do not know, but I remember to have seen general Bubna come to pay a visit to her royal highness with a lady.

Did you ever see general Pino visit her royal highness? I recollect once, it may have been more, but I remember his coming but once.

Used you to wait at table at dinner? Yes.

Will you take upon yourself to say that you do not know that your old master general Pino dined there more than once while you were in the service of her royal highness? Once alone that I have seen him, I have seen him but once, that I recollect.

Do you know the person of the prefect Tamasia at Como? Yes.

Will you take upon you to say you have not seen him and his lady dine with her royal highness more than once? I do not recollect.

Do you mean that you never recollect to have seen him dine there once, or only once? I remember once alone; it might have been many times, but once alone is what I recollect.

Did not the persons who happened to be visiting in her royal highness's house take part indiscriminately in those plays which were acted at her private theatre? I do not recollect.

Did Mr. Hownam never act? I do not recollect.

Mr. Cavalletti? I do not recollect.

Do you mean to represent, that you never saw any other parts performed upon that stage, except by her royal highness and Pergami? This I do not know; in the moment I entered I saw her royal highness and Pergami; other people I saw not, for I went away; there might have been.

What sort of a comedy were they acting while you saw them? When I was entering the room, I saw Pergami dressed as a sailor, performing the part of a buffoon, with a bladder striking like a fiddler, but then I went away and saw nothing else, because I did not remain at the comedy.

Did Mahomet perform his dance on that stage as an after-piece? I saw nothing of that.

You say you were four or five months in the family of Odescalchi, when did you go from his service? Not in the service; I was more than five months in the service of Odescalchi.

How long were you in the marquess Odescalchi's service? Near a-year.

Were you all your time Italy with him? No, I was with him in Germany.

How soon after you went to him did you go with him to Germany? Perhaps two or three months, precisely I do not know; I may be mistaken perhaps; a few days more or a few days less.

How long were you with him at Vienna? Six or seven months, but precisely I do not recollect.

What wages had you from the marquess? At Milan I had fifty soldi per day, five-and-twenty pence; at Vienna, four livres.

Do you mean livres of Milan? Yes, livres of Milan.

How many soldi are in a Milan livre? Twenty.

Was this rise of wages on account of your being living at inns and hotels? Because I was not at my own house, for at my own house I had my own dinner; being on a journey, he gave me four livres a day.

How much wages had you with her royal highness per day? Every three months I received thirty ducats; twenty-nine ducats every three months.

How many livres of Milan is there in a ducat? A ducat contains about six livres and a half of Milan; but I do not know precisely.

Had you with her royal highness these twenty-nine ducats every three months, living all the while in her royal highness's house, and supported at the table? Yes.

Had you any other perquisites or advantages of any sort besides that, when you were with her royal highness? I do not recollect.

Was her royal highness kind to all her servants? She was kind and affable.

At the marquess Odescalchi's, where you had fifty soldi per day, you had to find yourself, had you not? I had pottage.

Interpreter. It is not the same as soup; it is a species of hotch-potch, but without meat.

Mr. *Brougham.* Had you made money, and saved a little fortune in her royal highness's service? I had put by seven hundred livres.

What time had you taken to make this; in how many years? Three years.

Did you save any thing afterwards on your fifty soldis a day, when you were at the marquess Odescalchi's? I was making economy to save a little money for my family.

What does your family consist of? A wife and two small daughters.

How old are the daughters? One of them is nine years, the other is between two years and two years and a half.

About what time did you quit the service of the marquis Odescalchi at Vienna? About two years ago.

Into whose family did you go as a servant from the marquis Odescalchi, who hired you after him? The ambassador at Vienna.

Was it the English ambassador? The English ambassador, it was him I went to live with.

What is the name of the English ambassador? Lord Stewart.

Did you go as a postilion and courier, or a lackey to the English ambassador? The lord Stewart gave me only my subsistence.

Do you mean that you became attached to his embassy, as a sort of private secretary, or what? I was always at the ambassador's, and the ambassador gave me something to live upon.

Do you mean that you were in his house on the footing of a private friend? No, not as a friend.

When did you first see his excellency the English ambassador at Vienna? I do not remember when I saw him; I saw the secretary.

What was the secretary's name? Colonel Dureno.

Was he an Englishman or an Italian? I do not know; I cannot say.

In what language did he talk to you? In French.

Do you know a certain colonel Brown? I do.

What countryman is he? I do not know of what country he may be.

What language does he talk? In French.

Where did you first see colonel Brown? At Milan.

Was it while you were in the service of the Odescalchi family? No.

Whose service were you then in? I was serving no one at that time; I had left the service of Erba Odescalchi.

Do you mean that you left the family of Odescalchi for some time, and then went with him on a second hiring to Vienna? No, I left Vienna and went to Milan to colonel Brown.

Do you mean to colonel Brown, or with colonel Brown? I went to colonel Brown.

Whom did you go with from Milan to Vienna? With my father.

At what time was it you went from Milan to Vienna with the marquis Odescalchi? On the 30th of August, three years ago.

Do you mean in the year 1817? Yes, I think so.

At what time did you leave the service of the princess? In the year 1817.

In what month of the year? This I cannot remember.

Was it summer or winter? It was during summer; half summer.

How long after you left her royal highness's service, did you go with the Odescalchi family to Vienna? About five or six months afterwards.

How did you return to Milan from Vienna? I came to Milan to colonel Brown.

Who accompanied you? My father.

Was your father in the service of the Odescalchi family at Vienna? He was not.

How does he happen to come to Vienna, your respectable father? My father came to Vienna to take me.

Who sent him for you? I cannot know that.

What is your father? A carter, a carrier, carrying merchandize with horses.

Does he carry from Milan to Vienna, is that the constant course he makes with goods? No.

How did this carrier happen to set out, to pay you this visit at Vienna? He came to Vienna, to tell me to come to Milan.

Did he come with his carrier's cart? No, no.

At the time that your father came to Vienna, were you in the ambassador's service? I was not.

Were you living in the ambassador's house? No.

Was it during the time that you were supported by the ambassador? No.

In whose service were you? Of the marchese of Odescalchi.

When your father took you to Milan, did you there see colonel Brown or colonel Deering? I saw colonel Deering at Vienna, and colonel Brown at Milan.

You have seen colonel Brown, have not you, when you were in the service of the marchese di Odescalchi? Not during his service, but after my father came to fetch me.

What induced you to leave the service of the marchese Odescalchi, whom you liked so well as to accompany him to Vienna, and to go back with this respectable old carter to Milan? My father told me to go to Milan together with him, and I went to Milan together with my father.

Did you go to Milan because your father desired you, merely from respect for the orders of your parent? No, he told me that at Milan there was colonel Brown, who wanted to speak to me.

Did you not humbly represent upon that occasion, that your bread depended upon your place in marquis Odescalchi's family? Yes.

But still he told you to go and speak to colonel Brown, and therefore you went with him to speak to colonel Brown? Yes.

Do you go every where whenever any-body comes to say to you colonel Brown wants to speak to you, do you immediately leave your place to go to him? When my father told me so, I went to colonel Brown directly.

If your father were to go and ask you to

speak to colonel Black, would you go also there?

The Solicitor General objected to the question what the witness would do under particular circumstances; that what his conduct had been, and what his motives were, was proper subject of examination; but not what would be his conduct under certain circumstances.

Mr. *Brougham*. Did you ever before go, at your father's desire, any where to speak to colonel Brown, or colonel any body else? Never, before my father spoke to me, I never went to any place.

Had you ever seen colonel Brown before you went to speak to him at Milan? Never.

How did you support yourself on the journey from Vienna to Milan to speak to colonel Brown? My father paid my journey.

Has he made a private fortune by the lucrative trade of a carter or waggoner? No, he has not made a fortune as a carrier.

Has your father any money at all, except what he makes from day to day by his trade? I do not know.

Did your father and you live pretty comfortably on the road from Vienna to Milan, when you were going in order to speak to colonel Brown? We wanted nothing.

In what sort of a carriage did you go? A carrettina, or small calash, or cart.

When you got to Milan, did your father introduce you to this colonel, to whom you had come so far to speak? Yes.

Did you complain to colonel Brown of the loss you had sustained by giving up a good master and a good place? I do not remember.

Had you made any bargain with the marquess Odescalchi before leaving here, that he was to take you back when you got back from Milan, after your conversation with colonel Brown? I do not recollect.

Have you any doubt, that you will state on your oath here, that you made no such bargain whatever with the marquis Odescalchi? I do not remember.

Have you ever again been in the family of Odescalchi as a servant, since that conversation with the colonel? Yes.

When did you go back to the Odescalchi family? Not in his service, but he was going to Hungary, and he sent for me, to ask whether I would accompany him to Hungary.

Did you go with him as a friend, to go to a Partie de Chasse in Hungary? No, I was asked by the marquis de Odescalchi whether I would go with him into Hungary as a cook for three months.

Did you go with him and receive wages as a cook for those three months? He made me a present; I was not at his wages; but he made me a present.

How long were you in Hungary? Three months, or three months and a half.

Was Odescalchi a friend of his excellency the English ambassador at Vienna? I do not know.

Did you ever see the English ambassador at his house? I do not know.

How long is it since you came back from that trip to Hungary with the marquess Odescalchi? Last year, after the month of August; I do not know precisely whether it was August or September, but it was between those two months.

From the time you went to Milan to the time you came back to Odescalchi's family, to go to Hungary, how did you support yourself, having ceased to receive wages from him? The ambassador gave me something to live upon.

Did the ambassador give you any thing when you left Vienna, to go to Milan with your father? I do not remember.

Did you and your father pay for your own expenses upon that comfortable journey to Milan, which you took together? My father paid.

Did you travel by post horses or by vetturina? By post.

Both coming and going back? No.

How did you return from Milan to Vienna? By vetturina.

Who paid for your place by the vetturina from Milan back to Vienna? I and my father.

How did you pay; who gave you the money that enabled you to pay for yourself? Colonel Brown.

Did your father go back to Vienna from Milan with you? Yes.

Is your father in this country at present? Yes.

And your wife? Yes.

And your small family of children? No.

What square or street do you all live in? I cannot tell the name, for I do not know the name.

How did you come down here to-day, did you walk or come in a carriage? On foot.

About how far was it that you came; how many streets did you come? I cannot ascertain the distance.

How many minutes did you take to walk from your residence, or hotel, or house, to the place where you now are? Ten minutes.

Who came with you? I do not know; it was a gentleman who came to call me.

Do your father and your wife live in the same hotel with you? Yes.

And nobody else lives in the same hotel with yourselves, I suppose? Yes.

About how many others may there be? I cannot recollect, I do not know.

Will you swear that there are not 70 of you? I cannot tell, because I do not know the number.

Are they all Italians? I have never asked them; I do not know.

Are there any other Italians but yourself, your valuable parents and your amiable wife?

The counsel was informed, that in the opinion of the House the question was irregular; that it was slanderous.

Are there any other Italians besides your father and your wife? I believe there are some Italians.

Have you any doubt of there being any other Italians besides yourself? Yes, there are some other Italians.

Are there many waiters upon this inn? I do not number them.

Do you know the name or sign of the hotel? I do not know.

The *Solicitor General* objected to the question, as assuming that the witness was at an hotel, which he had not stated.

Mr. *Brougham.*—Is it an inn at which you lodge? I do not know whether it be an inn.

Is there a sign above the door? I made no observation.

Have they ever brought you in a bill to pay? No.

Have you ever paid any thing? Not yet; but I am to pay.

Are you to pay yourself for your own entertainment at this inn, or whatever it is? This I have not been asked for yet, whether I am to pay; I do not know whether I am to pay.

Have you to pay for your entertainment at the place where you are lodging; are you to pay for your own keep? I do not know.

[Counsel were directed to withdraw.]

The House adjourned at five o'clock.

HOUSE OF LORDS.

Wednesday, Aug. 23.

Immediately after prayers,

The Earl of *Darlington* rose, to call their lordships attention to a subject connected with the important business before them. In order to assist them in accomplishing the object they all had in view, which was the doing of ample justice, it was necessary they should have the means of forming a correct judgment on the evidence. It was therefore desirable that their lordships should have before them printed copies of the evidence taken from day to day. However difficult it might be to obtain this evidence, he thought it indispensable; for it might be necessary for their lordships to ask questions on many points, and he believed few possessed memories capable of retaining the great mass of evidence detailed before them for a length of time. For his part, he felt himself totally unable to keep the evidence in his mind, so as to avail himself, after a period, of it by recollection. The evidence given by the witness in support of the bill, on the first day, had made, he confessed, a very strong impression on his mind; but the cross-examination which took place yesterday [a cry of Order, order!] had tended very much to diminish that impression. He made this observation by way of illustration, to show the necessity of their having the evidence printed from day to day. After the counsel on each side had examined a witness, certain noble lords might wish to complete that examination by questions of their own. This could not well be done, unless they had before them, every morning, the evidence of the preceding day. It would probably be stated, that it would be difficult to get the evidence printed in this way: but this objection, he thought, could scarcely be made, when their lordships saw what was done by the newspapers. Very much to his astonishment, he had seen both yesterday and to-day, the whole of the evidence of the preceding day published at length. He could not be certain that the evidence was always thus given without the alteration of a single word; and it might be said that their lordships ought to have a vouched copy; but as so much was done in the newspapers, he thought there could be no difficulty in getting it detailed in the same manner for the use of the House. He would therefore move, that minutes of the evidence be printed for their lordships from day to day.

The Earl of *Lauderdale* suggested the propriety of their lordships having before them plans of the places alluded to in the evidence. It would facilitate the investigation very much if the different parties would agree on a plan; or, if that could not be done, each might give in a plan.

The *Lord Chancellor* said, that, however desirable it would be for their lordships to have on the table, every morning, printed copies of the proceedings of the preceding day, it would be necessary, before their lordships came to any resolution on the subject, to consider what steps must be taken for accomplishing such a purpose. Unless they departed from their rule, that whatever was printed for the use of the House must be held to be correct on the responsibility of the clerk, he did not see how the printing could take place. With respect to the publications to which the noble lord had referred, it was easy to understand how persons who might obtain admission there, could, by retiring every half-hour in succession, be enabled to give an account of the proceedings. After all the experience he had had in matters

of this kind, he doubted whether any utility which might be obtained from having the minutes printed from day to day would be a compensation for the departure from their lordships' rule.

The Earl of Darlington, in consequence of the objections to his motion, withdrew it. And the House being called over, the counsel were called in.

Then *Teodoro Majocchi* was again called in, and further cross-examined as follows by Mr. Brougham, through the interpretation of the Marchese di Spineto.

Do you recollect a German baron visiting the princess of Wales at Naples? I do not recollect.

Do you recollect a German baron visiting the princess of Wales at Genoa afterwards, on her way from Naples to Milan? I do not recollect.

Did any German baron visit the princess of Wales at the Villa Villani, during her residence there? There was a baron whom I think to be Russian, who twice paid his visits, but I do not know what name he had, and this is the same which was mentioned to me also yesterday.

Was the name of that person Ompteda or Omteda, or any name sounding like that? Precisely I cannot recollect the name by which he was called, for it was an extraordinary name, or unusual name.

Are you sure it was not baron Pampdor? I do not recollect.

Do you recollect that baron, whatever his name was, at the Villa Villani more than once? Once I remember; more I do not remember.

Had he not a servant with him, who used to live with the other servants of the house? I remember he had a servant, but whether he lived with the servants of her royal highness, I do not recollect.

Was there not a room in the house of her royal highness at the Villa Villani, which was called the baron's room, giving it the extravagant name whatever he had? I do not remember this.

Do you recollect a thunder storm upon the lake, in which her royal highness's party of pleasure was exceedingly wet? I do not remember this.

You have said that in the house at Naples, the rest of the suite of her royal highness except Pergami slept in another part of the house from her royal highness? I do not remember whether the other family slept separate or distant.

Do you now mean to say that the rest of the family of the suite, excepting Pergami, did not sleep at a distant and separate part of the house? I remember the position of the bedrooms of her royal highness and Pergami, but those of the family I do not recollect.

Then you do not recollect now, and you will not swear now, that the rest of the suite of her royal highness did sleep apart, at a separate part of the house? I remember well where her royal highness and Pergami slept, but as to the rest of the family, I do not recollect where they slept.

Was not this question put to you the day before yesterday, "Did the other people of the suite sleep in that part of the house, or at a distance?" I remember the position where her royal highness slept.

Answer the question put to you, was not the following question put to you the day before yesterday, "Did the other people of the suite sleep in that part of the house, or at a distance?" Yes, it is true.

Did you not give to that question the following answer: "They were separated?" I said they were separated, but I meant that they were so situated that they could not communicate together; I meant to say, that they could not communicate together.

Did you mean by that, that there was no passage, no way by which a person could go from the room of her royal highness to the rooms of those others of the suite.

The *Solicitor General* on reference to the Minutes stated, that the former answer of the witness was, that they were separated.

Mr. *Brougham* stated, that the Italian word used by the witness was "lontano," which meant "far off."

The *Solicitor General* objected to any interposition to alter the Minutes after they had been taken down by the short-hand-writer, and acquiesced as a correct translation.

The Interpreter was directed to be as precise as possible in his translation.

Do you mean to represent, that there was no way of going from the princess's room to the rooms of the rest of the suite, except by Pergami's? What I remember that I have seen no passage.

Do you mean to represent, that there was no way of getting from her royal highness's room to the rooms of the rest of the suite? I have seen no other, I have seen no passage.

No other passage than what passage? I have not seen any passage that led from the room of her royal highness to that of the family, I have seen no door except that which led into that of Pergami.

Do you know where the rest of the family in point of fact had their rooms? I do not remember that.

Will you swear that the rooms of Hieronimus and Dr. Holland and William Austin were not close by the room of her royal highness? This I do not recollect.

When you went from Vienna to Milan with your father, where did you lodge? At my house at home.

How did you support yourself? With my money.

How long did your own money last? I do not remember how long it lasted me.

Did any body give you any money there? I do not remember; when I left Vienna, I received money, but after I had left Vienna nobody gave me money, for I must speak clearly or openly.

Did any body give you money at Milan, after you had got there? I remember that they did not.

How long did you remain at Milan at that time? Precisely I do not recollect, but I think I remained between the space of eighteen and twenty days.

When you had returned with your father to Vienna, did you not yourself pay for the vetturina who carried you back? Yes, I did pay the vetturina back.

Who gave you the money at Vienna before you set out from Milan? Colonel Brown.

At Vienna? Colonel Brown gave me the money to go to Vienna.

Who gave you the money at Vienna to go to Milan? My father paid for my journey; this I do not remember; but I know well that my father paid for my journey.

Who gave you money at Vienna before you set out?

The *Solicitor General* objected to the question, as assuming that some person gave him money at Vienna.

The preceding questions and answers were read, and Mr. Brougham was directed to proceed.

Mr. *Brougham*.—Who gave you money at Vienna before you left it? My father paid the journey; nobody gave me money: my father paid me my journey, and I remember that nobody gave me money.

How soon after you got to Milan did any body give you money? Nobody gave me money when I arrived at Milan: when I arrived at Milan nobody gave me money.

While you remained at Milan did any body give you money? I remember not: I remember that nobody did: I do not know.

What is the answer you mean to give? I remember to have received no money when I arrived at Milan; I remember I did not: "*non so;*" I do not know: "*piu no;*" more no than yes: "*non mi ricordo;*" I do not remember.

Mr. *Cohen* being directed by their lordships to state whether he agreed in the interpretation given by the marchese di Spineto, stated that he did.

The Earl of *Rosebery* said, that it was most essential that the House should understand what the meaning of *non mi ricordo* was; whether it was that the witness did not remember a certain event, or that he remembered that no such thing occurred.

Lord *Longford* begged that the last answer given by the witness should be repeated to him by the interpreter, from the short-hand writer's notes.

The Marquis of *Lansdown* thought the better course would be for their lordships to leave the questions as they stood upon the cross-examination; and afterwards, when the regular time came for their scrutiny, to put such questions as they pleased.

The *Lord Chancellor* stated, that the usual practice was, for the counsel to proceed in their examination, cross-examination, and re-examination, before their lordships interposed.

The *Lord Chancellor*.—Mr. Brougham, proceed with your cross-examination.

Mr. *Brougham*.—My lords, I have done with the witness. I have no farther questions to ask of him. In a common case I should certainly be satisfied with this examination. In this case I have certainly no reason to desire to ask him a single question further.

Re-examined by *Mr. Solicitor General*.

Did your father conduct you from Germany to Milan, for the purpose of your being examined as a witness with respect to the conduct of the princess of Wales?

Mr. *Brougham* objected to the question as leading.

Mr. Solicitor General.—Upon your arrival at Milan, to which place you say you were conducted by your father, were you examined as to your knowledge of the conduct of the princess of Wales during the time that you were in her royal highness's service? I was.

Had you any other business in Milan? No.

Where, after that examination was done, did you go to? To Vienna.

When you were at Milan, before you were about setting off on your journey to return to Vienna, do you recollect having received any money or not? Before my setting out from Milan, yes; before my departure.

For what purpose did you receive that money? To make my journey.

Did you receive any money before you received that money for the purpose of enabling you to make your journey? I do not remember.

What do you mean by "Non mi ricordo?" When I say "Non mi ricordo," I mean that I have not in my head to have received the money, for if I had received the money I would say yes; but I do not remember it now, but I do not recollect the contrary.

The Interpreter sworn on behalf of her majesty was informed by their lordships, that the House expected him to interpose whenever he apprehended, that the interpretation given by the other interpreter was not correct.

Mr. Solicitor General.—You have stated that after this examination you returned to

Vienna; who sent you to this country now? Colonel Brown; he sent me from Milan to Vienna.

Who sent you from Vienna to London at this time? This I cannot say, for a person came to fetch me and tell me to come from Vienna to London.

Did that person come with you? This person has conducted me to London.

After you had arrived in London, did you go over to Holland? Yes, I set out for Holland.

Did you remain in Holland with the other witnesses?

Mr. *Brougham* submitted, that if the rules of courts of justice were to be adhered to, as he understood they were to be in this case, the re-examination could only apply to points which arose out of the cross-examination, and his learned friend was proceeding into new matter. He made this observation merely for sake of regularity.

The *Solicitor General* said, that he was as anxious to preserve regularity as his learned friend, and maintained that he was quite regular, as he was proceeding to interrogate the witness with respect to his movements since his arrival in this country, the cross-examination having applied to the witness's journey, as well as to what happened to him in London.

Mr. *Brougham* denied that he had put a single question with regard to the witness's journey to Holland, however he might have interrogated him as to his motions while resident in this country.

The *Solicitor General* argued, that his learned friend had put several questions to the witness with respect to what happened to him upon his journey, how he went from Vienna to Milan, how he went back, what became of him upon his arrival in London, palpably with a view to cast a doubt upon the character of his testimony, and to induce an inference, that he was delivering his evidence from some overruling, improper motive. He apprehended, therefore, that, to repel such an inference, he was entitled to examine the witness with regard to all his motions, from the time he left Milan up to the hour of his appearance at the bar. If it were otherwise, especially where the character of the witness was questioned, it would be in the power of a counsel to take up the evidence by piecemeal, to present garbled statements, and to give a false colouring to all the motives, circumstances and conduct of the witness. But the course for which he contended, was not only according to the rules of law but of common sense, and was evidently necessary in order to elicit the truth.

Mr. *Brougham* here offered himself to the attention of the House, and meeting some interruption from a cry of "Order,"

The *Lord Chancellor* said, "Mr. Brougham, you have the right of reply."

Mr. *Brougham* expressed a hope that he would be allowed to exercise that right in the usual way of courts of justice, where an advocate was not interrupted by any cries of approbation or disapprobation from the judges. He repeated that he made his objection to the course of examination which his learned friend was pursuing, merely with a view to preserve regularity. It was his original intention to have gone into every particular connected with the journey and movements of the witness, but from what had transpired this morning and yesterday, he felt such a proceeding unnecessary. If he had put any question to the witness which could warrant the course of re-examination proposed by his learned friend, it would be easy to point it out; and unless that could be done, he maintained that the question to which he had just objected was inadmissible. But if he did not forget himself as much as other persons appeared to have done in the course of this examination, he had never put any such question. He had not indeed said one word as to the witness's journey unless as to that from Vienna to Milan and back again. He had put no question as to the witness's journey from Vienna to London, or even as to his trip into Holland. Under these circumstances, he thought his learned friend could not consistently prosecute his proposed inquiry. Indeed, if his learned friend were allowed to do so, he saw nothing to prevent him from going back before the witness's journey from Vienna to Milan, as well as to other points which had not been touched in the cross-examination; nay, into the birth, parentage, and education of the witness. His motive for pressing this objection was, to guard against any irregularity in those proceedings.

The *Lord Chancellor* stated, that whatever difference there might be with respect to the rules of evidence in parliamentary proceedings, and the rules of evidence acted upon in courts below, he was influenced by a conviction that the nearer and closer their lordships kept to

the rules of law in the courts below, the better they would discharge the duty which they owed to all parties. That he was himself of opinion, in which the learned judges concurred, that this inquiry ought to go on.

The question was proposed to the witness? Yes.

Mr. Solicitor General.—To the best of your recollection, how long did you remain there? Twenty or twenty-five days; I do not precisely recollect.

Did you afterwards come over to this country with the same persons? No.

Did you come to this country with those persons with whom you were living in Holland? No.

Did you come over to this country with those persons with whom you were living in Holland? No, others had remained in Holland; I am not come with all.

If you did not come with all of them, did you come with some of them? With some of them.

Did you come in a vessel up to London? Yes.

Did you land with the same persons in the neighbourhood of this place? Yes, the same persons with whom I came from Holland have landed at the same dwelling where I am.

Is that near this court? Yes, it is.

Have you all remained there from that time to the present? Yes.

Have you come from that place for the purpose of giving evidence here? Yes.

Have you all dined at the same table? Yes.

On board the Polacre, at the time when this tent was raised, were mademoiselle Demont and mademoiselle Brunette on board? I do not remember that.

Do you know mademoiselle Demont? I know her.

Was she on that voyage? Yes.

Did you see her from time to time? I saw her.

After the vessel left Jaffa, on the voyage back to Sicily? She followed the journey; the voyage.

And the countess Oldi also? Until her royal highness landed, the countess Oldi followed also.

Was the sleeping place of these women below deck?

Mr. *Brougham* objected to the question.

Mr. Solicitor General.—Do you remember where the sleeping-place was; whether above or below the deck?

The counsel were informed, that it was the wish of the house, that the counsel, on original and re-examination, would put their questions generally so as to avoid objection.

Mr. Solicitor General.—Was mademoiselle Brunette on board during the voyage? Yes.

With respect to the Villa d'Este, you have told us there was a passage contiguous to the apartment of the princess; was there any door at the extremity of this corridor? At the end of this corridor there was a wall on the left; there was a cabinet of her royal highness.

Do you remember whether, in going into that corridor, there was a door to close the corridor if necessary? Yes, there was a door which shut up the corridor; and when that door was shut there was no way of going into the room of her royal highness.

When that door was shut, so as to prevent persons from going into the room of her royal highness, did it prevent any person in the bed-room of Pergami from passing into the bed-room of her royal highness? When this door was shut, as far as I recollect, there was a passage by which people might pass from the room of Pergami to that of her royal highness.

You have stated, that besides the approach to the bed-room of Pergami at Naples, through the small cabinet in which you slept, there was a small door in that bed-room of Pergami? In the cabinet there was a door which led into the room of Pergami.

Was there in the room of Pergami another door? Another door by which Pergami came himself.

Where did that door open to? I will go into the room of Pergami; I mount the stairs and turn to the left, I cross the room where her royal highness dined, and there was a small corridor, and on the left there was the door of the room of Pergami.

Was that door near the dining-room in which the princess and her suite dined? In the middle there was this small corridor.

Between the two, do you mean? Yes, between the two rooms; at one end of the dining-room there was this small corridor, and on the left there was the room of Pergami.

Was that the room where the princess and her suite dined, and where the servants attended? It was.

How long did you remain in the service of her royal highness? Three years.

Were you dismissed from the service of her royal highness, or did you go away of your own accord? I asked once for my dismission at Rome, and twice at Pesaro, and the second time Pergami granted it to me.

At the time when you left the service of her royal highness, did you receive from her royal highness any certificate of your good conduct? Yes; I had it not in the hand-writing of her royal highness, but there is her seal; Schiavini wrote the paper.

Have you got that certificate about you?—The witness produced it.

The Marquis of *Buckingham* said, it would be quite impossible for their lordships to understand the nature of the evidence given, with accuracy, unless they

were furnished by the counsel on both sides with some plan or plans of the apartments to which the evidence referred.

The *Lord Chancellor*.—The better way would be, for the counsel on each side to agree upon one plan for the information of your lordships. And if they do concur in delivering in such a plan, let it have no denomination of rooms; but let the apartments be marked 1, 2, 3, or 4. The plan should be produced to-morrow morning.

The *Solicitor General* stated, that the counsel in support of the bill were in possession of some plans, but that they were subject to the objection referred to by their lordships; but that copies should be prepared according to the intimation now made by their lordships.

Mr. *Brougham* said, that he felt great difficulty indeed in acceding to the production of a plan in this stage of the proceeding. When their lordships recollected that these plans must necessarily embrace descriptions of ships, palaces, houses, inns, and other places, in so many countries of Europe, they must at once be struck with the difficulty of compliance. The plans, even with the numerical arrangement, might lead to serious injustice. He must, indeed, be an uncommon framer of a plan, who could so arrange it as that it would not at once furnish the witnesses with the relative position of all the rooms they had to describe, and at once enable them to reconcile their evidence to the actual description. He begged to apprize their lordships that he meant to regulate his evidence principally, or at least a great deal upon the description of the houses given by the witnesses on the other side. Now, how could he do this with effect, if he were obliged, at the outset, to produce a full plan? The publication of the evidence, morning after morning, was not calculated to promote the justice of the case; but from the circumstance of so many of the witnesses being foreigners, the language of that publication was not understood by them, and consequently full information of what was passing was not received in such a quarter. But any man, whether he understood English or not, if he had eyes, must understand a plan. While the publication went on, and the language was not understood, the witnesses were nothing the wiser, but a plan at once put them in possession of all. There was an end at once, then to "*non mi ricordo*;" that vanished at once, and the tutelary saint of the plan settled every thing. If the plan were indeed ordered to be drawn up from the description of the evidence as already given before their lordships, then he could have no objection to such an arrangement; but he could never consent to the circulation of such a plan as that called for, in the present stage of their proceedings.

The counsel were informed no plan could be delivered until it was sworn to be an accurate plan; that, supposing the plan to be accurate, the witnesses would have a right to look at it; but that it might be left to the counsel on one side to produce a plan, and prove it to be correct, and the counsel on the other side to object to it, if they were informed it was incorrect.

The Marchese di Spineto was directed to translate the paper delivered in by the witness.

Mr. *Brougham* stated, that he had not cross-examined as to the conduct of the witness while in the service of her royal highness, but that he was ready to admit he was considered as a good servant, particularly a good travelling servant, during the whole time he was in her royal highness's service, and therefore submitted that the reading of this paper was inapplicable and incorrect.

The *Solicitor General* submitted, that the course of the cross-examination had been to impute misconduct to the witness; that certain questions had intimated that he was to be considered as a member of a gang which attacked the house of her royal highness; that he afterwards applied to her royal highness to be taken into her service again, but that his services were refused.

Mr. *Brougham* was heard in reply, and further stated, that it was not brought home to the knowledge of her royal highness, being written by Schiavini, who was not proved to be connected with her royal highness.

The *Lord Chancellor* stated, that there were two questions:—First, whether this was authenticated to be the act of the illustrious personage implicated in the inquiry:—Secondly, whether, if so authenticated, it could be received in evidence: that upon the latter question he did not understand there was any doubt in the minds of the learned judges, and there was none in his own; but that he did entertain a doubt whether it must not be proved that the person who put that seal had some authority to do so, before it could be read.

Mr. Solicitor General.—Do you remember Schiavini? I do.

What situation did he hold in the household of the princess when you left? Equerry maresciallo.

What do you mean by maresciallo? The person who commands.

Had he the general management of the house? To command; I do not remember.

Where was the princess at the time when Schiavini gave you this character?

Mr. *Brougham* objected to the translation, as implying that it was a certificate of good character, whereas the contents were not at present before their lordships.

The *Lord Chancellor* stated, that if it was written by any person shown to have been authorised by her royal highness then it would be permitted to be read.

Mr. Solicitor General.—Can you say whether Schiavini had the general management and superintendance of the servants of the household? I do not know who commanded, for Pergami commanded, Schiavini commanded, both commanded; it was impossible for me to know which of the two commanded, who was the superior commander; Pergami came and commanded, Schiavini came and commanded; all commanded.

One of their lordships intimated, that the word servants had been translated 'Le Corte,' and the interpreter was asked whether that would include the personal attendants on her royal highness.

Marchese *di Spineto.*—It would include the whole of the establishment of a person of the rank of her royal highness.—This was acquiesced in by Mr. Cohen.

Mr. Solicitor General.—Who, at the time when you left the service, had the immediate superintendance of the servants? This I do not remember.

Did you apply to Schiavini to give you this paper?

Mr. *Brougham* objected to this question as irrelevant; for the proof of the application to Schiavini, or even of this paper having been written by that person as *major domo* to the princess, could answer no purpose whatever in this case, unless it appeared to have been authenticated by the princess.

The *Lord Chancellor* intimated, that applications to Schiavini, unless the evidence should be carried farther, would be useless; that the counsel who offered it must at all events prove that Schiavini was in the habit of giving similar testimonials to other servants.

The Solicitor General withdrew the question, stating that he was not able at present to carry it further.

Examined by the *Lords*.

Lord *Auckland*.—You state, that in the voyage from the East to Terracina, there were tents put on the deck of the vessel: what sort of weather had you? I do not remember.

Lord *Ellenborough*.—How was her royal highness dressed when she passed through the cabinet to Pergami's room at Naples? I do not remember.

Earl *Grey*.—Did you see her royal highness distinctly on that occasion? Yes.

But you do not know how she was dressed? I do not remember what dress she had.

Were you yourself in bed? Yes.

You were understood to say that her royal highness went and looked at you? Yes.

Did you pretend to be asleep at that time? As I am now asleep.

Interpreter.—He means that he was awake.

Earl *Grey*.—Did you pretend to be asleep? Yes, I feigned to be asleep.

Did you shut your eyes? Yes, a half: by shutting the eyes no one can see a person.

You shut them just enough to make her royal highness think you were asleep, but not enough to prevent you seeing her? Yes.

You stated that you left general Pino's service at the blockade of Mantua? From the blockade of Mantua; that is, before shutting the gates of Mantua.

Did you leave general Pino's service voluntarily, or were you dismissed? I remember to have asked my dismission from the adjutant Lunard, and he told me he could not grant me my discharge until general Pino returned from Milan.

What did you do in consequence of that order? I continued to remain in his service.

Did you remain till the return of general Pino? I did.

On his return, did general Pino give you your dismission? The adjutant came and told me I was now at liberty.

Did you get a certificate of service from general Pino? No; because I did not even ask for it.

Where did you go immediately from the service of general Pino? To Milan, to my family.

How long did you remain at Milan? I do not remember the time.

Did you remain out of service while you were at Milan? Out of service.

How did you maintain yourself during that time? In getting some money by buying and selling horses; in making horses to be bought and horses to be sold.

When did you leave Milan? I do not remember when I left Milan.

Where did you go when you left Milan? To Vienna, during the time of the congress.

How did you go to Vienna? I had a horse of my own, and with two of my companions, we put some money together, and bought a small species of small cart, and we travelled together.

What was your object in going to Vienna? To see whether I could find some place to get a mouthful of bread: to get my bread.

Lord *Darnley*.—You state that Pergami was in the habit of dining with her royal highness, having commenced at Genoa, and con-

tinued always afterwards; you have also stated, that lady Charlotte Campbell joined her royal highness at Milan: Did lady Charlotte Campbell ever dine with her royal highness at the same table with Pergami? This I do not recollect.

Marquis of *Buckingham.*—You have stated, that when on board the polacre you saw Pergami hand down the princess to the place prepared for the bath? I did.

Did you see Pergami and the princess enter the cabinet in which the bath was prepared? I did.

You have stated that you handed down two buckets of water to Pergami for the bath, and that Pergami received them? I carried two pails of water to the door of the bath, and Pergami came out and took one of the pails; I do not know whether it was hot or cold.

Did you see the princess when Pergami took the pails from you? No; because she was within, and I did not see her.

You say there was another cabinet within the dining-room besides that provided for the bath? I do not remember whether there was another cabinet.

Then the following Questions put to the Witness, and his Answers to the same, were read from the Minutes of yesterday:

"Was not the bath taken always, when taken, in the dining-room itself? Not in the dining-room, but in the room next to it.

"What do you mean by the room next to it? A small room.

What do you mean by the other small room, where was that placed? Another small room that was on one side.

"Do you mean, that after you entered from the fore part of the vessel, where every body slept, into the dining-room, that within the dining-room there was another small room entering into it? As soon as you enter the dining-room there was a small room where the princess took the bath."

Was there another small room within the dining-room besides that used for the bath? I do not remember.

When the princess and Pergami descended to go into the place destined for the bath, did you see the countess Oldi? I did not see her.

Did you see any of the female attendants of the princess? I did not see any.

Did you see any of the female attendants of the princess on that occasion on the deck of the vessel above, when they descended below? I did not see any myself.

Earl of *Carnarvon.*—You have mentioned a tent having been erected upon the deck of the polacre; was that a double tent? I do not remember whether there was one or two, but I know well there was this tent where her royal highness was.

Did that tent cover the whole deck, or was there room to pass by the side of it? There was room for people to pass.

Do you know whether any person slept in that space left? I do not remember I had seen any person.

Marquis of *Buckingham.*—At what time of the day was this bath taken on board the polacre, morning or evening? About noon; somewhat before dinner.

Was Pergami dressed or undressed when he received the buckets of water from you? He was dressed.

Lord *Falmouth.*—You have stated, that at the Villa Villani you remember the princess to have given a blue silk gown to Pergami? Yes, a blue silk gown.

How do you know that the princess gave Pergami that blue silk gown? Because I saw it afterwards upon the back of Pergami.

The former question was, "Do you remember the princess giving that blue silk gown to Pergami?" and the answer was, "Yes." How do you know the fact that it was given to him by her royal highness herself? Because he told me that her royal highness had given him this dress; he, he himself told me so.

Earl of *Oxford.*—You have said, that you saw the princess and Pergami in the cabinet on board the polacre, but that you did not see the princess when you brought in the water; when was it you saw the princess in the cabinet? When the bath was ready he went up stairs, took her royal highness, brought her down into the room, and shut the door.

Lord *Duncan.*—To a question put, "Do you know whether, at the time you took the water, the princess was actually in the bath, or not?" you have stated, "That you cannot know." To another question, "Whether the female attendants were upon the deck?" you have answered, "That you did not see them." Can you swear that none of her female attendants were at that moment in the bath-room with the princess? Yes, I can swear to having seen nobody go into the bath-room of her royal highness.

Were you actually in the room, or merely at the outside of the door of the cabinet, or the door of the inner room? I was at the door when Pergami went up stairs to tell her royal highness that the bath was ready; when they came down, Pergami told me, "Be at the door, for if there be any need of water you shall give it to me."

At which door was it, at the outer door or the inner door, that the two pails of water were given? At the door of the bath-room itself.

Earl *Grey.*—Could you, in the position in which you stood at the door of the bath-room, see every body that was in that room? When it was open I could, but when it was shut I could not.

Will you swear there was nobody in that bath-room except the princess and Pergami? I can swear, and I do swear, that there was no other when Pergami and her royal highness came into the room, because I put myself at the door.

Do you mean positively to swear, that you

saw nobody else go into that room, or that nobody else could be in that room without your knowledge? I have seen no other but her royal highness and Pergami.

Was it possible for any other person to be in that room without your seeing them? No, that cannot be; for if there had been another person, I should have seen her, and I swear it.

Lord *Auckland.*—Did you remain in the outer room during the whole time that the princess and Pergami were in the inner room? At the door with the two pails of water.

Lord Chancellor.—You have stated (vide p. 26 of the printed Minutes), being asked where the bath was prepared, that it was prepared in the cabinet of her royal highness; you were asked who assisted at the bath, and you said, "the first time I carried the water into the bath, and then Bartolomeo Pergami came down and put his hand into the bath to see the temperature of the water, then he went up stairs and handed her royal highness down, after which the door was shut, and Bartolomeo Pergami and her royal highness remained alone in the cabin," was there any person in the room in which the bath was when Pergami went up stairs to bring the princess down? There was nobody, I saw nobody.

Was there any person in that room when he brought the princess down? No.

Or when the door was shut? No.

Earl *Grosvenor.*—Was there any other door by which persons could go into the room where the bath was placed? I had not seen any other door.

Was there or was there not? I had not seen, if there was any other.

Will you swear there was no other? I have not seen, and I swear that, because I have not seen any door but that.

Lord Chancellor.—If there was any other door into the room where the bath was prepared, must you have seen it? If there had been another door I must have seen it; but I have seen no other door.

Lord *Auckland.*—Did you see the princess and Pergami quit the bath-room? No, but I have seen Pergami come out of the room to go on deck; to call the maid to come down and dress her royal highness, and I have heard, with my own ears, when he said, "mademoiselle Demont, come down to dress her royal highness."

Leaving her royal highness by herself in the bath-room? Alone in the bath-room.

What was your position when Pergami left the bath-room? I was still there with the hot water, because I thought that they still might need the hot water.

Could you at that time see into the bath-room? When Pergami went out, he went out sideways, and immediately shut to the door.

How long had Pergami and the princess been in the room before Pergami went to call the maid? About half-an-hour.

Marquis of *Huntly.*—Was Pergami, on retiring from the bath-room, dressed in the same way as when he handed the princess in? He was.

Earl *Grey.*—Did you remain with the warm water at the door of the bath-room, when Pergami went to call the maid to dress the princess? I remained there till he told me to go away.

When did he tell you to go away? When he went up to call mademoiselle Demont, he told me, now no more water is wanted.

Did you go away immediately, or did you wait till mademoiselle Demont came down stairs? Pergami remained up, mademoiselle Demont came immediately down, and I took my pails and went away; and I saw mademoiselle Demont alone enter the bath-room.

Do you know how long the princess remained in the bath-room, after mademoiselle Demont went to her? I cannot know it because I went away about my business.

When mademoiselle Demont came down, Pergami did not come with her? No; I saw only mademoiselle Demont.

Lord *Anson.*—In page 26 of the printed evidence, there is this question "Do you remember at any time when the princess and Pergami were below in the room for the purpose of taking a bath, being called to supply any additional water," to which you answer, "I do remember, two pails, one of hot and the other of cold water;" upon receiving those orders, did you go any where to get that water, in order to have it ready at the time that Pergami might call for it? No, I went no where, because there was a sailor who gave me the water at the door of the dining-room.

Then you received the water at the door of the dining-room, not the door of the bath-room? The sailor came as far as the door of the dining-room, and brought the two pails, and I took these two pails and carried them to the door of the room where the bath was.

Did you receive the pails in the dining-room, or did you go to the outside of the dining-room door, to take those two pails? At the door of the dining-room; I did not go out of the room.

How did the sailor know that this water was likely to be wanted, on Pergami desiring you to have it ready? Because the sailor had got ready the bath in the room, and it was said her royal highness was going to take the bath.

Lord *Darnley.*—You stated, that a tent was placed on the deck of the polacre; what was the nature of that tent; was it that commonly called tent, or merely an awning? It was a tent which was spread on the deck by the means of a rope, and then in the evening it was closed as a pavilion, as a closed tent, it was closed all round; in the evening this tent was let down and was closed all round; and they said, "Stop it well, stop it all round, see that there be no hole, no opening."

Was it single canvas? Sometimes it was a single tent, sometimes other pieces of canvas were put round to stop the openings.

Earl *Grosvenor.*—By whom were you recommended to the service of her royal highness? By Bartolomeo Pergami; that I remember.

Earl *Grey.*—Do you know that the princess was in the bath before Pergami left the bath-room to call mademoiselle Demont? This I cannot know, whether she was in the bath, because I did not see into the bath-room.

Marquis of *Lansdown.*—You have stated, that when you were at Rome you asked for your discharge, but did not obtain it; and that afterwards at Pesaro you asked for your discharge, and did obtain it. What was your motive for wishing to be discharged from her royal highness's service? Because her royal highness was surrounded by bad people.

Earl of *Carnarvon.*—How was her royal highness dressed when she went into the bath-room with Pergami? As far as this goes I do not remember.

Was it an ordinary dress, or a bathing dress? This I do not remember precisely either, what dress she had.

What was the size of the bath-room? Perhaps from here to the first bench (from 6 to 7 feet); a small room.

What furniture was there in that room? I remember that there was a sofa bed, or sofa, where in the morning we placed the cushions when we opened the tent.

Marquis of *Lansdown.*—You have stated, in answer to a question put to you just now, that you asked to quit, and actually did quit her royal highness's service at Pesaro, because you conceived a bad opinion of the persons about her royal highness; if that was your motive, what was your motive for making the application afterwards, which you have stated you did make, to be restored to her royal highness's service. Had you then altered your opinion of the persons by whom her royal highness was surrounded? I applied to Schiavini, in a kind of conversation, whether it might be possible to enter again into the service of her royal highness thus, in a playful way.

Did you then mean nothing that was serious by making the application to be received again into the service of her royal highness? No, as people do in common conversation; would it not be again possible to enter into the service of the princess; and I was in service at that time.

Lord *Falmouth.*—You have stated, in page 26, in answer to this question, "Do you know, whether, at the time you took the water in this way the princess was actually in the bath or not?" "I cannot know." You have just now said, that when you took in the two pails of water that Pergami received into the bath-room, if there had been anybody there besides Pergami you must have seen them; how is it that you reconcile this apparent inconsistency, that, when you could not see whether the princess was in the bath or not, you could see whether there was any other person in the room besides Pergami?

Some discussion arising whether there was a contradiction in the evidence, the question was withdrawn.

Lord *De Dunstanville.*—You have said that in the journey from St. Jean d'Acre to Jerusalem you and Carlo or Carlino sometimes slept between the outer and the inner tent. Can you recollect how often you so slept? I remember twice.

Do you remember at either of those times to have heard any conversation, or anything that induced you to believe that there were two persons in the inner tent? Yes.

Could you distinguish whose the voices were? I could not distinguish the voice; but I heard whispers.

Could you understand of what persons the voices were, whether male or female? I heard two voices speak by whispering, but I could not make out whether they were women's voices or men's voices.

Mr. Brougham requested permission to suggest a question, to be put by their lordships to the witness.

The counsel were informed that they might propose any questions to their lordships.

Mr. Brougham proposed the following questions, which were put by their lordships.

You have stated, that you were in place at the time the conversation passed between you and Schiavini about being taken back, what were your wages at that time? I was in the service of the marchese Erba Odescalchi.

Did you or did you not make repeated applications to Hieronimus also to be taken back into her royal highness's service? This I do not remember.

Did you or not also make application five or six times to Camera to be taken back into her royal highness's service? Softly on this point. The first or second time that Camera arrived at Milan, Camera sent his son for me, and Camera told me, and I remember it as well as if it was now,—Teodore Majoochi, do not enter into any service, because her royal highness wishes to take you back, and I shall pay you. This conversation must be put down, such as it is, and I beg to be allowed to speak. Camera told me—Teodore, give me back the certificate of your good service, give me back such paper, and I will tell to her royal highness that you have not taken a further engagement—that you have not been in any further service, and she will pay you for the whole time you have been out of service—all the time you have been out of service, and all the damages or losses you have suffered; and I told Camera—Camera, give me back my paper; because I had already given him my paper; because rather than go to serve her royal highness on account of the persons that are about her, I will go and eat grass.

Was this conversation with young Camera or with old Camera? With Camera the father.

Did you or did you not, ever make application at any other time to Camera, to be taken back into her royal highness's service? No.

Do you know whether Camera was examined at Milan? Of this I know nothing.

Earl of *Lauderdale*.—Was this conversation you had with Camera at Milan, before you went to Vienna, or subsequent to your return? Before I went to Vienna.

The witness was directed to withdraw.

Gaetano Paturzo was called in, and the following questions proposed through the interpretation of the marchese di Spineto:

Mr. *Denman*.—What religion are you of? A Roman Catholic.

When did you last take the sacrament of the Lord's Supper?

The counsel were informed that the question was not usual.

Mr. Denman stated, that he should be able to show that, in the opinion of Catholics, an oath was not binding, unless taken soon after confession, and the Lord's Supper being taken.

The counsel were informed, that in the opinion of the House the oath would be binding; and their lordships directed that it should be administered.

The witness was sworn.

Examined by *Mr. Attorney General*, through the interpretation of the marchese di Spineto.

What countryman are you? A native of Naples.

What is your occupation? Captain of a merchant vessel.

Are you part owner of the vessel which you command? I am.

What share? One fourth.

In the month of April 1816, were you mate of a ship then commanded by a person of the name of Gargiulo? I was.

What was the size of that vessel? Above three hundred tons.

Do you remember the princess of Wales coming on board that ship at Augusta in Sicily? I do.

To what place did the vessel sail from Augusta with the princess on board? Directly to Girgenti: at Girgenti we had not sufficient water for the ship, and we sailed to Tunis.

Do you remember the names of the persons who accompanied her royal highness on that occasion? Almost all.

Mention the names of those whom you recollect? A certain Bartolomeo Pergami, a count Schiavini, a certain William Austin, a certain Camera, Teodoro, Carlino, a cook named Francis.

Any females? Yes.

Who? The countess Oldi, I believe, but I do not remember quite well; the dame d'honneur, two chambermaids, one of whom was called Dumont, the other was called Brunette, and a little child, called Victorine.

When you first sailed from Augusta to Tunis, do you know the situation of the cabins appropriated for the princess's and the countess Oldi's sleeping rooms? The real cabin of the ship was divided into two; on the right hand there was the bed of her royal highness on the left, that of the countess.

Outside those cabins, was there the dining cabin? There was.

Do you know where, at that time, Pergami's cabin was? I do.

Where was it? In the first cabin, on the right hand, immediately after the dining-room.

Interpreter.—I cannot make out whether it was immediately after, on a straight line, or on one of the sides.

The question was proposed to the witness.

The whole size of the ship almost was divided into three parts, not quite equal; the two lateral parts were divided into small cabins; one of those small cabins, that properly which was most near to the poop, and was near to the dining-room, was that appropriated to Pergami.

Did the dining-room extend the whole breadth of the ship?

Mr. Denman objected to the question as leading, and submitted that the witness should be directed to describe the situations of the rooms.

The Attorney General was heard in support of the question.

The Attorney General was informed by their lordships that he might put the question, did the dining-room, or did it not, extend the whole breadth of the ship? or that it might be preferable to ask. How much of the breadth of the ship did the dining-room occupy?

The question as thus modelled was proposed.

The whole breadth.

After you left Tunis, did Pergami continue to sleep in the cabin in which he had slept upon his voyage to that place, or did he sleep in any other part of the vessel?

Mr. Denman objected to this question, as assuming that they did leave Tunis.

Mr. Attorney General.—After you had been at Tunis did you sail from thence to any other place? We sailed for Malta.

After you left Tunis, did Pergami continue to sleep in the cabin he had first occupied, or did he sleep in any other part of the vessel? His bed was removed into the dining-room, and most specially, or properly, or particularly, on the right hand of the dining-room.

Interpreter.—I have translated that word in several ways; I cannot give the proper meaning of the word in one word; I should translate it, "more particularly on the right hand," or "to speak more correctly, on the right hand."

Mr. Attorney General.—Was the right hand side of the dining-cabin nearer or farther from the princess's room than the left hand

side of that cabin? As the chamber of the princess was on the right hand side, it was more near, because they were both on the same side.

Whereabout was the door leading into the princess's bed-room? The room of the princess had a door which led into the dining-room, and then it had another door of communication with the chamber of the dame d'honneur.

Was that communication with the chamber of the dame d'honneur from within the princess's room? Yes; the cabin was divided into two chambers, as we have said, one for the princess and the other for the dame d'honneur, by a painted canvas; before reaching the end of this canvas, at the boards or partition which divided the ship, there was a door of communication.

When Pergami's bed was removed into the dining-room, how far was it from the door of the princess's bed-room? The room of the princess had a wooden partition which divided it from the rest of the ship; on the opposite side was the poop of the ship; near to the canvas on the left hand was the bed of the princess; nearly in the middle of this partition there was a door which led from the room of the princess into the dining-room; on the right hand in this dining-room, at a proper distance, was situated the bed of Pergami.

If the door you have mentioned was open, could a person in the princess's bed see Pergami's bed? Why not, according to the division which was made; in whatever situation a person was in this bed of Pergami's, he could not help seeing the bed of the princess when the door was open, the situation of the bed was such that they could not help seeing both together, but a person might stand up in the bed in such a position that he might not see the bed of the princess; if he stood upright he might put himself into a situation not to see the bed of the princess, but a person in the bed of Pergami might see the bed of the princess because they were in the same line.

You have stated, that the body of the ship was divided into three divisions; on each side were cabins, a passage in the middle terminating in the dining-room; in going from that passage into the dining-room, how many doors were there leading into that dining-room? There were two doors.

After the ship sailed from Tunis, was one of those doors closed? Yes, one was closed; it was nailed up.

After that, was there one entrance or two from the dining-room into that passage? One outer door.

Where did you go from Tunis? To Malta.

From Malta where? To the Archipelago, and the island of Milo.

Did you afterwards go to St. Jean d'Acre? After much voyage, we went to St. Jean d'Acre.

Where did the princess go from St. Jean d'Acre? To Jerusalem, to visit the holy places.

Did you accompany the princess on that visit to Jerusalem? I went in her company.

During that journey, did you travel by night or by day? We travelled the whole of the night and part of the day; but during the other part of the day, when it was very hot, we rested.

When you rested by day, were any tents erected? Not always, for at Nazareth we lodged at a private house; but when we left Nazareth, until another convent at a little distance from Jerusalem, we rested in tents.

In what tent did Pergami rest? Where the tents were raised, we dined also; and in one of those tents was the princess; and in this tent was immediately placed an iron travelling bed; and upon a piece of matting, like that in this House, was put another bed; then they there dined, with the countess Oldi, and Austin, and Pergami; and then I saw nothing else, because I went to dine myself.

Do you know who slept in that tent? For the princess I know, because it was the tent of the princess; but as far as the others are concerned I do not know, for I went to rest myself.

Do you know where Pergami slept?

Mr. Denman objected to this question, the witness having stated, that he was in a situation in which he was disqualified from knowing where Pergami slept.

The Attorney-General was heard in support of the question.

The counsel were informed, that in the opinion of their lordships that question might be asked.

Mr. Attorney General.—Do you know where Pergami reposed during the time these tents were erected? I positively cannot know where they slept, because I left them and went to dinner.

Mr. Denman interposed, and desired that no more might be interpreted; stating, that in the further part of the answer the witness stated his imagination.

The Attorney-General objected to the interpreter being interrupted while giving the answer of the witness.

The counsel were informed, that it was the desire of their lordships that the interpreter might not be interrupted in giving the answer of the witness, that the House might judge of its application to the question.

Mr. Brougham submitted, that their lordships might ask the interpreter, whether it was or not, an answer.

The counsel were informed, that the interpreter being sworn to give the answer, their lordships must hear it as he translated it, and must judge of its application, the counsel resting perfectly satisfied that if it should not be evidence, it would have no weight in their lordships minds.

The interpreter was directed to proceed with the answer.

Interpreter.—The words are, "but I imagine."

Mr. *Denman* again interposed. Their lordships, he said, knew that, in a court of justice, if, instead of taking the statement from an interpreter, they examined the witness himself, and he answered that he did not know some particular point, but that he guessed or imagined some circumstance relative to which a question might be asked, the counsel appearing in such a case would not do his duty to his client if he did not instantaneously interpose, and prevent the witness from proceeding. In any court whatever, he conceived the same course should be followed, and that the counsel, when a circumstance of that nature occurred, was bound to bid the witness shut his mouth. Here, when a word was interpreted "I imagine" it was absolutely necessary for him to interpose to prevent the whole of the answer being received.

The *Lord Chancellor* stated, the interpreter could not be stopped in giving his answer, until it appeared from so much of his interpretation as he had made, that he was then about to state imagination, and that it now appearing what the witness was about to state, was the witness's imagination and not his knowledge, that he could not give that in evidence.

The Interpreter was directed to inform the witness, that he was to state to their lordships only the facts within his knowledge.

Mr. Attorney General.—Did you ever see Pergami reposing under any other tent? No.

When you were at Jerusalem, were you present at the church there at any ceremony? I was.

Was the princess there? She was.

What was the ceremony? Pergami, Austin, and the count Schiavini were made knights of St Sepulchre.

Do you know whether that is a Catholic order? It is, because they wished first to know something about the holy Sacraments from us Catholics.

Whilst you were at Jerusalem, was any other order conferred upon Pergami? Whilst we were at Jerusalem I know nothing of it.

Did you remain at Jerusalem with the princess, or return before her to Jaffa? I went to Jaffa before her royal highness.

Did the princess and her attendants embark at Jaffa on board the same ship? They did.

After they left Jaffa, was any tent made upon the deck of the vessel? There was.

Was that tent closed at night? It was.

Was any sofa or bed placed under that tent? There was a sofa and a small bed, the same which her royal highness had on the journey.

How were that sofa and bed placed under the tent? They made an angle, with a little distance to make a passage.

Have you yourself ever assisted in closing that tent at night? Outside I did.

Who was in the tent at the time you have assisted in closing it? The princess, Pergami, and some person belonging to her service—some of her suite.

Do you know who remained in that tent during the night? Those who remained under the tent I do not know; but the servants who were in the tent, came out of it, for I saw them on the deck, and spoke to them.

A doubt was suggested whether the witness had not said they came in and out of the tent, and the question was proposed to the witness.

Under the tent I do not know who remained; for this tent had a communication which communicated also below; and whether the princess went out also from it, I do not know.

Have you ever seen the tent raised in the morning? Yes.

Whom have you seen under that tent, or have you seen any persons under that tent when it has been raised in the morning? For the most, the princess either sitting or lying on the sofa, and Pergami on the bed, and some person in the service; sometimes I did, and sometimes not.

When you have seen Pergami so on the bed, how was he dressed? With his usual lower dress; and above he had a species of Grecian cloak or toga—a species of morning gown with large sleeves.

Have you ever known that tent closed during the day? I have.

For how long at a time? A little time, half an hour or an hour.

Who were under the tent when it was closed in the day? It appeared the same as it appeared in the evening when the tent was closed.

Who were under the tent at the time it was closed in the day? The princess, Pergami, and some person belonging to her service that assisted in closing the tent.

Did that person who assisted in closing the tent come out from it, or remain under it? Many times I have seen this person on service come out, but at other times I was employed about the business of the ship, I do not know whether this person came out or remained.

Interpreter.—I used the word person, as he does not say whether it was male or female.

Mr. Attorney General.—Do you know by whose directions the tent has been closed on those occasions? Sometimes the count Schiavini, or Camera, but always one of the suite of her royal highness.

Have you ever seen the princess and Pergami walking together upon the deck? I have.

In what manner? Arm in arm.

Have you ever seen them upon the deck when they have not been walking? I have.

In what situation have you seen them then? In different situations.

Describe some of them? Sometimes sitting on a gun, with the arm of one behind the back of the other, because the gun was small, supporting each other with the arm; sometimes Pergami lying on his back upon his small bed, and the princess standing near to the bed of Pergami leaning forward; but whenever this happened, the captain, now with one excuse, now with another, sent me away, because we are distant relations.

You say you have seen the princess and Pergami sitting on a gun with their arms round each other, have you ever seen the princess and Pergami sitting in any other situation? I have.

In what situation have you seen them? Sometimes I have seen Pergami sitting on the bench near to the main-mast, and the princess sitting on his lap or thigh, with an arm round his neck over his shoulder.

Have you observed how Pergami's arm was upon that occasion? Pergami's arm was behind the back of the princess, and the arm of the princess was round the neck of Pergami.

You have stated that there were a sofa and a bed placed under this tent, do you know where that bed was taken from when it was placed under the tent? This small iron bed came on board when the princess came, with all of her furniture or luggage.

Do you know, before the tent was erected, where that bed was placed? First of all we must observe the nature of the bed, which had the legs of iron, and a piece of canvas without boards at the top; when we began to stretch the tent upon deck to shelter from the sun, then the princess ordered this sofa to rest herself during the day, and then also from out of her luggage was brought forward this small bed.

Do you remember in the course of your voyage St. Bartholomew's day, the 24th of August? I do.

Did any thing particular take place on board the ship on that day? During that day there was general mirth through the whole of the equipage, or the whole of the crew, which could hardly be kept in during the evening; afterwards dishes were set with lights to make an illumination all over the ship, and to all the sailors was given to drink; by the order of Pergami, they had a dollar each; and all the crew danced, and they cried, "long live St. Bartolomeo! long live the princess! long live the chevalier!"

When Pergami came on board at Jaffa, did he wear any other orders than the order of St. Sepulchre? At parting from Jaffa it was seen several of her majesty's court appeared with orders, with a yellow or straw-coloured ribbon.

What was that order called? St. Caroline.

Cross-examined by Mr. *Denman*, on behalf of the Queen.

Who of the household had those orders you have last named? Pergami, Austin, the count Schiavini, the doctor, Camera, and the two English officers who were in the service of her royal highness.

Had not every one who had been at Jerusalem with her royal highness those orders? Not all; but only those seven persons whom I have mentioned.

You say you are a Neapolitan by birth, where do you live now when you are at home? I am fixed at Messina, because I live with my father, who is established at Messina.

Interpreter.—He means that he is still with his father; that he is not emancipated.

What is your father? Gian Battista Paturzo.

What business or trade? First pilot in the royal navy of Naples, with the rank of an officer.

You are not married yourself, are you? I am not.

Have you always borne the same name? Yes, certainly; I never changed my name.

Was your name well known on board the ship you have been speaking of? Yes, certainly; by all the crew who knew me to be the pilot.

Of how many did the crew consist? The crew consisted of two-and-twenty in the whole.

They were all constantly employed in managing the ship? The crew was employed both in the service of the ship and the service of the princess, as I was employed myself.

Have you seen any of them lately; within this week? I have seen the captain.

What is his name? Vincenzo Gargiulo.

Have you seen no other of the crew during this week? I have not.

Have you seen any of them within this half year? About two months ago; but during the last six months, as Messina is a thoroughfare, I have seen some of the sailors on board other vessels.

Who was the man whom you have seen within the last two months? Francesco da Campora.

Where did you see him? At Messina.

Was the little gun you spoke of upon the deck? On the deck, we could not carry it in our pocket.

The bench near the mainmast was on the deck also? The bench was upon deck, because it forms the trap-door.

The crew had access to all parts of the deck at all times? As soon as the tent was closed, nobody could pass through the place occupied by the tent, but in all the other parts of the ship they might go on deck I mean.

Were you ever at Milan? Now in my way here.

You came from Messina to England by Milan? I came from Messina by sea to Naples, from Naples by land to Milan, Paris, Dieppe, from Dieppe I crossed the sea to Brighton; and from Brighton by land to London.

Was that the first time you were at Milan? Yes

Who first applied to you to come here? For this business, the English vice consul at Messina.

When was it? Towards the 23rd and 24th, or 25th of the last month, July.

Was that the first time you were desired to give evidence upon this subject? Yes.

Did you go to the consul, or did the consul come to you? The consul sent for me; because he had been charged by the minister at Naples.

What are you to have for coming here? For what I have lost, it will be very little indeed.

How much is it you are to have? For coming here, I must receive, as a compensation for the ship and the trade I have been obliged to give up to come here, eight hundred dollars a month.

Interpreter.—The dollar is about 4*s.* 3*d.* to 4*s.* 4*d.*, but I remember once to have changed it as high as 4*s.* 5*d.*

Mr. *Denman.*—Did you pay your own travelling expenses? I have paid nothing, because I came accompanied by a courier. I have been obliged to come, because the minister applied to the consul, and the consul told me, that if I would not go, I should be made to go, by means of the government; and as the business was to say the truth, I was not willing to come to such extremities.

Who was that courier? From Naples to Milan, Nicola Janneo; from Milan here a Mr. Krouse, or something like it.

How did you travel from Naples to Milan? In a carriage; I could not go on foot.

Do you mean a stage coach, or a diligence? A hired carriage, which the courier hired.

Then it was hired for you two; not a carriage which any person might take his seat in for paying? Those questions it is useless to put to me, because I know nothing at all about it. I saw the horses changed, the only thing I know is, that the minister gave me to the courier, and the courier brought me here.

The minister gave you to one courier, and that courier gave you to the other, Mr. Krouse? This courier brought me to Milan; at Milan colonel Brown gave me into the charge of the other courier, when the courier brought me to Milan; at Milan we delivered a letter to colonel Brown, which letter the minister had given me; and colonel Brown gave me to the charge of Mr. Krouse, who conducted me here.

How long were you at Milan? I have not my memorandum book in my pocket book, perhaps two or three days.

Where did you live during those two or three days? At an inn.

How often did you see colonel Brown there? When I took the letter to him, and when I went to take my leave to set out with the second courier.

Did you see a man of the name of Vimercarti? The name of Vimercarti I do not know at all; this is the first time it reaches my ear.

Did you see any person there who examined you, and took down what you had to say? Yes.

What was that person called? There was present colonel Brown, two persons, the person who wrote, who made four, and I made five.

Did colonel Brown put questions to you? Just like this gentleman, to tell the truth and what I had seen.

Were you sworn upon the cross of Christ? I did not take any oath on the cross, because I was not asked; but it was the same, because if I did not take it then I can take it now, and a thousand times before I die, because it is the truth.

Were you sworn at all at Milan? Not at all.

Had you been examined at Naples before you set out? No.

How did you travel with Mr. Krouse from Milan to Paris? Also in a carriage.

Were you and Mr. Krouse alone in it, or were there any other persons? I and Mr. Krouse and the post boys that were changed.

Was it a cabriolet? What we call a calashe, with four wheels, with two seats to sit upon.

When did you arrive in London? Yesterday.

How long did you remain at Paris? We arrived in the morning, and set out in the night.

In the course of that day did you see any person at Paris who talked to you on this subject? No, in regard to my deposition, no.

Did they ask you any questions upon this subject? I want to have a better explanation, because I do not understand.

Did any body talk to you at Paris as to what you were to say against her royal highness? No; because otherwise it would have been the same that we have just been saying now of the deposition.

It is not asked whether any body told you what to say, but whether any person had any conversation with you on the subject? Did any body talk to you at all at Paris on the subject of the princess? No, for in Paris I was so little a time that it was hardly sufficient for me to rest, for I was travelling by post.

Were you never examined before upon this subject before you set out from Messina for Milan? No.

What day was it you were at Paris? What is to-day; for I do not know.

This is Wednesday; how many days ago is it? Those are such minutiæ that I do not remember.

Do you mean to say that you cannot tell whether you were at Paris during the last week or not? Saturday, the last week, I was at Paris.

Have you been examined since you came to England? Yes.

Before you came into this house I mean? Yes.

Have you been brought into this place before you came in just now as a witness? No.

When were you examined here in London? Yesterday.

Do you know the name of the gentleman who examined you? No.

You were not sworn, I suppose, yesterday? No.

Where have you been since your arrival in London? There; where all the rest were, where there is communication with this room, down below.

All the rest of whom? Others; persons who are there.

How many? I never had the curiosity to reckon them.

Can you tell whether there were twenty or one hundred? I have not reckoned them; I think of my own business.

Do you mean to say that you do not know whether there are ten persons only or ten times ten? Ten and ten times ten make a hundred, if I do know arithmetic that will do.

In the place from which you come here, were there as many as six persons? Whether there are six or whether there are more, I do not know; I do not know more than three, which is the captain, Theodore, and the cook.

Do you mean Theodore Majoochi who has been here examined? Yes.

Where did you sup last night? At a table.

Did those persons sup with you, the captain, Theodore, and the cook? First of all last night I took tea; secondly, there are persons the servants in the employ of the place, then in the room where I took tea we were five, the captain, this Theodore, and the other; I do not know who were taking tea, there were two, three, or four; I paid no attention to the number.

Did you sup together afterwards? I took no supper last night; I took tea.

What day was it you came from Dieppe to Brighton? Yesterday I arrived here, which was Tuesday; Monday we set out from Dieppe, and on Monday evening we reached Brighton.

Mr. *Brougham* stated, that not being aware of the attendance of this witness, he trusted their lordships would not feel him precluded from putting further questions to him as well as to the former witness at a future time, in case of receiving information which might render it material to do so.

The counsel were informed, that the House would judge of the application when it was made, with the circumstances occasioning it.

Re-examined by *Mr. Attorney-General.*

Have you left your ship at Messina? Yes, certainly.

What is the size of your ship? Two hundred and sixty-nine tons.

Is 800 dollars per month more than an adequate compensation for your coming here, in consequence of your ship and yourself being unemployed during the time? I want to know whether it is meant to apply to a compensation for myself, or for the ship.

Is that more than an adequate compensation for the ship being unemployed during the time you are here? This 800 dollars per month is not so much for the mere hiring of the ship, for I and the other men of the same kind do not reckon so much upon the hiring of the ship merely as a carrier of goods, but from what we can derive from our own trading, because we load the ship, together with some other merchants, at our own account, and we may lose a great deal, but we may gain a great deal.

Taking those circumstances into consideration, is the sum you have stipulated for, more than an adequate compensation in your judgment? I cannot tell, if my speculation would succeed, I could gain a great deal more; but if my speculation should fail, I could lose more.

Examined by the *Lords.*

Earl *Grey.*—Where is your ship now? I have left her at Messina.

Was it about to sail on any other voyage, when you left it? No.

Must that vessel remain unemployed while you are absent? I do not know.

Is it possible, that it may be sent by the other proprietors in the course of its usual trade? Why not, because then they put on her another captain, and that hurts my business.

Then it is a compensation for your absence, and not for the ship not being employed? For the gain which I lose by leaving the ship, and leaving my trade unattended to.

Have you a share as the proprietor of a fourth part of that ship in any profits made by that ship during your absence? The fourth part of the ship is mine; is given to me after the deduction of the expenses merely for the freight, but not for what I might derive upon the gain of the trade.

You gain the proportion of that paid for the profit of the freight, but not the profit of the adventure? None in the merchandize, because as I am not present I do not employ my money, and cannot have any share in it.

In the voyage from Jaffa, how many sailors were usually employed on the deck at night? Of the whole crew, one-half was employed for four hours, and the other half was not employed, consequently the other half was at rest.

Then the House is to understand, there were always ten or eleven men upon the deck during the night? And when it was bad weather all the hands were on deck.

There were never less than ten? Never, except of those who during the night went to assist to dress the horses.

Those men were in the habit of walking up and down deck while they were on duty? The person at the helm was at the helm, I was near to the person at the helm, and the others were walking at the bowsprit at the fore-castle.

Was there a passage by which they could walk past the tent? The tent occupied a little more than one-half of the breadth of the ship.

Was there a passage by the sides of the tent from one end of the ship to the other? On the side where the tent was there was no passage, because the tent reached to the side of the ship; on the other side there was a passage.

Were the men in the habit of passing the tent during the night? Whenever there was any occasion to perform some service at the poop, they passed; when not, as is the custom of all sailors, they remained in the forecastle.

Marquis of *Lansdown.* — At the time at which you state that you were desired by the captain to go away on some pretence or another, where were you sent away, to another part of the deck, or below? According to what he commanded me to do.

State, to the best of your recollection, what he ordered you to do, whether to go below, or to another part of the deck? Sometimes he told me to go into the cabin to settle his accounts, for they were open accounts; sometimes he told me to go to the forepart, and take care of the sailors, that they should not make a noise, or something like that.

When the captain so told you to remove, were there any other persons that remained near that part of the deck where her royal highness and Pergami, and the captain, were? A ship is not a town; though I went away from them, I was not divided from them except by the great boat or the long boat, which was in the middle.

Did any other persons remain in that situation from whence you were desired to withdraw? Where the princess was, was the princess alone; but as I have stated, the gun, as well as this seat or bench, was in the very middle of the ship, wherever they put themselves, they are in a species of situation wherever they place themselves.

At the time that you were, under some pretence or other, directed by the captain to remove from that part of the deck where her royal highness, and the captain, and Pergami were, were there other persons remaining near to the captain, and to her royal highness and Pergami, in that part of the vessel? As soon as I went away, I could not know what was passing there.

Were there any other persons, at the time you were so sent away, who were suffered to remain in that part of the deck from whence you were sent? Must I know it before I went away, or after I have gone away.

At the time you went way? At the moment that I was going away something was ordered to me, and I could not pay attention to what was done, or who remained.

At the time you have stated that her royal highness and Pergami were reclining in the way you have stated upon the gun, can you recollect whether the state of the weather was calm, stormy, or otherwise? If there had been a storm they could not have been on deck; it was summer-time, and it was fine weather. Once we had a storm, and they were not then on deck.

Earl of *Rosebery.*—Had your ship much motion at that time? During summer there is only light air, and then it is followed by calms; and there is hardly any tide to make any motion; and when they were sitting there, it was calm; the ship did not move.

In the voyage from Jaffa, you state, there was a communication to the cabin below from the tent; did that communication lead to any other part of the ship, or was it only a communication to a particular place from which there was no exit, except to the tent again? I will describe the plan immediately, and thus I spare trouble; if you will favour me with a sheet of paper I will do it immediately. Do your lordships wish to have the plan of the corridor where the cabins were, or of the part of the vessel, or the whole deck.

Did that communication which you state went from the middle of the tent to below, go to any other part of the ship; and if so, to what part?

[The witness drew a plan of the ship.]

Interpreter.—He has given me the description of the tent; the whole of this is the whole tent when it was closed, this is the sofa, and this is the bed; here are the steps that go down below, and the tent would take in the steps inside.

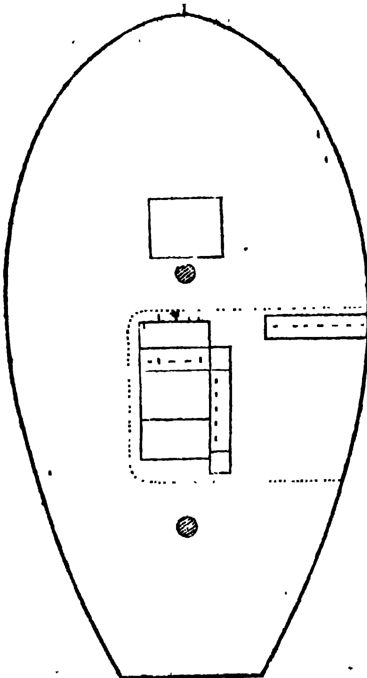
[The plan was handed in to their lordships.]

(*See next page.*)

Witness.—Those steps lead into the dining-room.

Then when the tent was so placed, was there any possibility of getting into the dining-room except through the tent? There was another place which I have marked a little higher up under the archway, because that led into the middle of the cabins.

In the position you have described her royal highness and Pergami upon the bench under which was the pump, were there any other persons capable of seeing their position? Yes, why not; because it was a time that other people were taking the fresh air in the cool of the evening, other people might see if they chose to look.



Lord *Auckland*.—Can you recollect in what part of the ship during this voyage, Teodore Majoochi slept? Yes.

State it? He had as a place assigned to him a hammock in the hold, but wherever he felt more easy he stretched himself.

Could he from that sleeping place possibly hear what passed in the night in the tent? When he slept in the hold I believe not, because the noise must have passed through two decks.

Lord *Ellenborough*.—Did Theodore Majoochi sleep habitually in the hold, or between decks? To assert that would be telling an untruth, which I will not tell.

Did he ever sleep in the dining-room? I know not.

Where did Pergami sleep during the voyage from Jaffa? There were two beds as we have said under the tent, and when the tent was opened, it was seen that upon that small bed was Pergami, and on the sofa was the princess; when the tent was closed I had no communication with the part of the ship belonging to the princess, therefore I do not know.

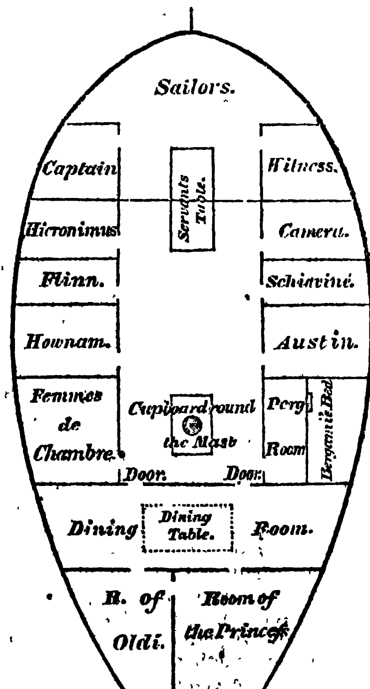
On the voyage from Jaffa, had Pergami any other place to sleep in but the bed within the tent? Where the princess and Pergami slept under the tent I have not seen them; but what I know morally is, that the princess and Pergami slept under the tent, because there were horses on board, which made a great deal of noise, and they said that they could not bear to sleep below.

Where were the beds placed during the voyage from Jaffa, which the princess and Pergami used as described by you in the voyage from Tunis? On the sofa there was nothing else but the single mattrass of the princess, which was doubled, and the other mattrasses of the princess were placed on the bed, where they had been placed at the beginning, below.

You stated, that the further part of the cabin was divided into two; in one of the rooms so formed slept the princess, and in the other countess Oldi; and the bed of Pergami was placed in the dining-room; where were those two beds placed during the voyage from Jaffa? The bed of the princess remained there where it was; as to the bed of Pergami, when he got up, it was rolled up; for they had other things—their luggage; for the bed of Pergami had not a bedstead, but was put down on the planks of the corridor, and it was rolled up in the morning; but I never have paid attention to see whether the bed was there or was not there.

Was the distribution made of the apartments different on the voyage from Jaffa from what it was on the voyage from Tunis: can you draw a plan of the distribution of the apartments before and after the alteration?

[The witness drew a plan of the original situation of the apartments in the ship, which was handed to their lordships.]



Besides this, which I have now given to their lordships, the only alteration made was,

that the bed of Pergami from his room was put into the dining-room near to the door.

Was Pergami's bed taken out every night on the voyage from Jaffa? As to this I cannot tell what happened below in the apartment of the princess, because there I had nothing to do, and I do not know what happened in that place, except that when we put into a harbour, where the princess landed, either with the whole or a part of her suite, during the day I, with the crew, went to clean the apartments, and thus I was enabled to see that the bed of the princess was there, because I went to have the room cleaned.

Did other persons sleep where Majoochi usually slept? Yes, that is where Majoochi had his bed.

Did Camera sleep in the same place? No, Camera slept in the cabin.

How many tents were there in the journey to Jerusalem? I do not know; many, several; as many as were sufficient for so many as we were.

Lord Chancellor.—Do you know where the female attendants slept in the voyage from Jaffa? The women had the small cabin which I have marked down, the other was assigned to the countess Oldi, but I never went below, and saw whether they actually slept there.

Lord *Belhaven*.—Did you ever see the lantern, or light, put out from under the tent, after the princess had retired from the tent, to any person to take it away? The light, yes; sometimes this light was given from under the tent, and sometimes it was carried down below, by the communication below.

Do you know who received it under the tent? This light was not put from under the tent; it was put out of the tent, sometimes the captain, sometimes Theodore, sometimes Carlino, sometimes the sailors; even the captain himself took it away, whoever was near.

Do you know who gave it out? No, for this light remained in the tent for sometime after the tent was properly arranged; I did not remain near to the tent beyond the time in which the tent was arranged, then I went away; I mean when I was there.

Do you know whether any person slept in the dining-room during the voyage from Jaffa? Do your lordships speak of what I have seen with my own eyes.

No; do you know it positively?

Mr. *Denman* expressed his unwillingness to interpose by way of objection to a question from their lordships, but submitted, that the question was not in the form in which questions were usually put by counsel.

The counsel were informed, that where questions were put by the House, their lordships had always permitted counsel to submit to the House, whether these questions were correct, that the counsel had most properly called the attention of the House to the question put by the noble lord; that he had therefore to request that the noble lord would state the question he wished to propose; that in the Berkeley peerage it had been laid down, that after the counsel has closed their examinations, their lordships were at liberty to put questions not put by the counsel, being bound to do justice between the parties. The question was proposed as follows:

Do you know whether any person slept in the dining-room during the voyage from Jaffa? This I do not know; I do not remember any particularity with regard to this.

Earl of *Darnley*.—Do you know whether during the same voyage, the princess took her clothes off during the night, or whether she did not? We must distinguish betwixt knowing and seeing; what I know and what I have seen; I have seen sometimes in the morning the princess open a little of the tent, and I saw her having a white gown on, a dressing gown, or some gown or other, and she opened the tent just to take a morsel of air in the morning before the sun rose.

Mr. Cohen was asked whether that was the whole of the answer, and he stated that it was.

Lord *Ellenborough*.—Have you ever seen Pergami look out of the tent about the same time? No; because towards the sea where the princess opened, the princess opened just as little as to put out her upper parts, her neck or shoulders.

Was there any communication between the chamber in which the princess slept down below, and that of the countess Oldi, when they both slept down below? Yes, there was a communication to pass from the room of the countess Oldi to that of the princess.

Without going through the dining-room? Yes.

Mr. Denman requested their lordships to put a question to the witness, which, under the leave of the House, was proposed as follows:

What is the name of your ship at Messina? Il Vero Fedele.

Does it belong to the port of Messina? She does.

What are the names of your partners? Only Jagonio Milanase.

Earl of *Lauderdale*.—From your knowledge of the situation of the dining-room relative to the tent, could a person in that dining-room hear what passed in the tent when the tent was shut up? Yes, a person might hear well, provided they were words pronounced with their natural force.

[The witness, and also the counsel were directed to withdraw.]

The *Lord Chancellor* said, that before the House separated, he wished to state, that he had not failed to apply to the highest sources of information, on the point, how far prosecutions might be supported against witnesses examined, in the course of this proceeding. He understood, most unquestionably, that such

prosecutions could be maintained; but he had not put to the same sources any question as to the effect of the exercise of the privileges of the House, should it interpose to prevent the production of the necessary evidence. It was material that the public mind should be satisfied upon this matter: and another point of importance was, that in endeavouring to accomplish this purpose, the House should not lose sight of its privileges. A third consideration was, that, by coming to any resolution on this subject, it should not be implied that there would be any occasion to prosecute any of the witnesses. He purposed to-morrow to move the House to resolve, in effect, that if there shall be occasion for such prosecutions, the House will suspend its privileges, and not interpose to prevent them; meaning, at the same time, to frame that resolution in such terms as to answer all the objects in view.

Ordered, That the further consideration and second reading of the said bill be deferred till to-morrow.

HOUSE OF LORDS.

Thursday, August 24.

The order of the day being read for the further consideration and second reading of the Bill of Pains and Penalties against her majesty, counsel were called in.

Then *Vincenzo Gargiulo* was called in, and sworn through the interpretation of the marchese di Spineto.

Mr. *Williams* (one of her majesty's counsel) said:—My lords; before this witness is examined, I certainly do not wish to revive discussion upon any subject upon which your lordships may be supposed to have decided, but I wish to understand distinctly from your lordships, whether or not a question is decided which I am desirous to submit—a point which I believe has not been under your lordships consideration, still less in any degree argued before your lordships.

My lords; in the observations which I am about shortly to address, I do not—indeed the body of authorities to the contrary would be sufficient to discourage me from so doing—attempt to say that upon any preliminary inquiry there can be the slightest discussion or examination into any person's particular faith or belief, provided he entertains a settled opinion with respect to a future state and the being of a God—that I admit;—but although that be true, yet it is equally certain, that in every case a person who is adduced as a witness is to be sworn according to that form and in that ceremony which he deems to be most binding upon his conscience. I do not state this upon slight grounds, because your lordships well know the case of Omichund *v.* Barker, which was so solemnly decided,—in that case which arose upon the immediate question, whether or not a person not having any idea of the Christian religion, but being completely a heathen, could or could not be an admissible witness at all, all the judges, without exception, including the lord chancellor, went upon this precise ground, that a person who is to be sworn in each case is to be sworn according to those ceremonies which he himself deems to be most binding upon his own conscience; he is to be "most solemnly sworn," in the language of one of the learned judges; in the language of chief justice Parker, which was adopted by chief justice Willes, "oaths are to be administered to all persons according to their own opinions, and as it most affects their consciences." Your lordships will not fail to observe those words, "as it most affects their consciences," insomuch that if in the case of a Chinese, which has once occurred—if in the case of a Mahometan, which has once occured—any one of those persons should have taken the form of oath which is binding upon every inhabitant of this realm, and he was afterwards to begin to give his evidence, it is manifest by what occurs in all of those cases, that it would not be a binding obligation upon him, but it would be having recourse to a ceremony which, though material in this country, is immaterial in his conception; and therefore passing by his own particular opinion and his own particular ceremony would, in effect, be giving perfect latitude, and relieving his conscience from the virtual obligation of an oath. In the case to which I have referred the Gentoo was sworn by the ceremony which he thought most binding.

The *Lord Chancellor*.—I do not apprehend there can be any doubt in point of law with respect to what you now state. You may take it as conceded, that a man cannot be sworn in any particular form, if he does not believe in the being of a God or a future state—if he does not believe in the being of a God or a future

state he could not be a witness at all. I apprehend he must pledge himself to veracity in a form binding according to his own religious opinions.

Mr. *Williams.*—I distinctly admit, that any sort of belief of that description cannot be inquired into—I allow that is no question to be made—it is decided that the question cannot be put. Mr. Justice Buller refused to permit a person to be asked whether he believed in the Gospels, when he stated that he believed in the being of a God, and that he conceived he was responsible to that God. What I was about to submit to your lordships is this, that we have a right to inquire from this particular witness, supposing him to be a Roman Catholic, whether or not, according to the form of swearing in his own particular country, and according to the form of law which there obtains, there are not certain ceremonies observed which he deems to be material towards the obligation of an oath, and the omission of which ceremonies in his particular case, would be as fatal as swearing a Gentoo on the Gospels, or swearing a Mahometan upon the Gospels, whereas the evidence of each of those witnesses would be admissible only upon the ground that their faith is pledged by the administration of the particular form of oath which each of them deems most solemn and most binding, and upon this I found the inquiry we were about to institute of this witness, and what I am submitting to your lordships upon that subject is, that it is competent for us to inquire upon this preliminary question, I mean upon the *voir dire,* whether or not there are ceremonies which he in his own country would have gone through, which he in his conscience believes to be binding, which have not been observed upon the present occasion, though the ceremony at present observed is, for the reason I have given, binding upon the subjects of this realm. So that I do not at all impugn the validity of this person's oath—I do not call in question his particular opinions—I have nothing to do with him, but merely wish to know whether he has been, in the language of chief justice Parker, "*most* solemnly sworn"—whether the oath has been administered according to his opinion, as it does *most* affect his conscience, and it is with that view, that I beg leave to submit some questions to the witness upon the *voir dire.*

Mr. *Brougham.*—Perhaps your lordships will allow me to call your attention, in support of what has been urged by my learned friend, to the case in Cowper and to the particular expression used by my lord Mansfield in referring to the case of Ormichund *v.* Barker: "Upon the principles of the common law no particular form is essential to the oath to be taken by a witness"—No more do we contend for any particular form; but, he adds, "but as the purpose of it is to bind the witness's conscience, every man should be bound by that form which he thinks will bind his conscience most." Now, I submit to your lordships the materiality of that mode of expression "which he thinks will bind his conscience *most,*" and my lord Mansfield adds, "this was agreed to in the case of Ormichund *v.* Barker by the judges." Now your lordships will observe, that were it not for this mode of laying down the rule, it might be open to my learned friends on the other side to contend, and it might be open to the observation which dropped from your lordships the other day, that if a man only believes in God and a future state, that is sufficient as far as it regards the binding him by the religious sanction of an oath—that if he says, "I am bound by this form, this is a form which binds my conscience"—were it not for the authority I have just stated, it might be contended that we have enough if we have got him to take that form of oath that he admits binds his conscience; but my lord Mansfield goes a step farther; relying on the case of Ormichund *v.* Barker, and referring to the opinion of the judges in that case, he says, "every man should be bound by that form which he thinks will bind his conscience most." Supposing an Englishman were to go to China and were to pass through the mode of swearing in a court there, which it is perfectly well known a Chinese has gone through at the Old Bailey Sessions in an admiralty case, in the year 1806, a case of Murder, in which we know the Chinese had a China saucer held up before him, which was broken, and certain words were pronounced by him or by the priest, that being the mode of swearing by which his conscience would be bound in his own country—supposing, I say, an Englishman to go to China, and a saucer were to be broken before him and the words pronounced, and he made no objection (for I understand the objection to my argument to be that the witness does not object)—

could it be said to be sufficient that the Englishman did not object to the mode of swearing, supposing he admitted upon the *voir dire*, that it bound him to a certain degree, when every man knows that another mode of swearing is a mode in which he is accustomed to be sworn in his own country and with which he has associated all his ideas of religious observance—which he has been accustomed to look to as imposing the solemnity of a religious sanction, and what we commonly call the obligation of an oath—could it be maintained, that he ought not to be sworn, and that the court would not have said, you shall be sworn, not in a way which you admit binds your conscience, that is not enough, but you shall be sworn in the way which "*most* binds your conscience."

Lord Chancellor.—The Counsel will be so good as to inform the House, what is the question they wish to put to the witness.

Mr. *Williams.*—I am desirous to learn from him, first, whether he has ever been examined as a witness in his own country?

Lord Chancellor.—That does not signify.

Mr. *Williams.*—Also, whether he has seen a witness examined, and then whether there are certain ceremonies observed at the time of administering the oath?

Lord Chancellor.—If it is not inconvenient to you, confine yourself at present to the proposal of one question.

Mr. *Williams.*—It shortly comes to this, whether there are not certain ceremonies observed in the country to which he belongs, which he deems to be binding upon his conscience.

Lord Chancellor.—My lords; I state it as the opinion I have received from the Judges, and the opinion I entertain myself, that the witness may be asked whether he considers the oath he has now taken to be an oath binding upon his conscience, and that the question now proposed to be put to the witness ought not to be put.

Mr. *Brougham.*—We do not put that question: we do not deny that it may to a certain degree be binding.

Lord *Erskine.*—My lords; I beg to express my concurrence in the opinion which has been delivered by the noble and learned lord. I am of opinion that it is not competent to the learned counsel to show whether there are other forms used in the country to which the witness belongs, but that they are at liberty to ask him whether the oath tendered to him is that which is binding upon his own conscience. I remember a case to have occurred when I was at the bar. A person came into the court of King's-bench, in the time of lord Kenyon or lord Mansfield, I think lord Kenyon. Lord Chief Justice Eyre was sitting in the other court—a witness came who did not describe himself to be of any particular sect, entitling him to an indulgence, but stating that, from certain ideas in his own mind, he could not swear according to the usual form of the oath; that he would hold up his hand, and would swear, but would not kiss the book. I have no difficulty in saying, that I wished very much to get rid of that witness, and I asked what was his reason for refusing to be sworn in a certain form? He gave a reason which appeared to me a very absurd one, but it strengthens the very matter we are upon—"because it was written in the Revelations that the Angel standing upon the sea held up his hand"—this appeared to me to be no very good reason. I said this does not apply to your case, for, in the first place, you are no angel, secondly, you cannot tell how the Angel would have sworn if he had been on shore. The chief justice sent into the court of Common Pleas to ask the opinion of chief justice Eyre, and the opinion delivered by chief justice Eyre, and which the learned chief justice thought himself bound by was, that though this man could not swear himself to be of a particular sect, yet, if he stated, (whether his reason was a good or a bad one), that that was the manner consistent with his feelings of the obligation of an oath, and that which would be binding on his conscience, that was the oath which ought to be put to him; and that was administered. The question is what the witness feels himself.

Mr. *Brougham.*—I only wish it to be understood what is the point we have raised. Our objection is not that he is not bound by it, but that if there be another way which would bind him more, that should be preferred.

Earl *Grey* proposed to have it put to the witness, whether any other form of oath would be more binding on his conscience.

Lord *Redesdale* said, that if the mode in which the oath had been administered to the witness was wrong, then all the

foreign witnesses that had given evidence in courts of justice, in his experience, had been improperly sworn.

Earl *Grey* proposed to refer it to the Judges whether the witness might not be asked, if there was any other mode of swearing which he thought more binding on his conscience?

Lord Chancellor.—I understand your lordships wish this question to be proposed to the Judges.—" If a witness pro-" duced in the Courts below, without ob-" jecting to it, takes the oath according " to the usual form, can he be asked " whether he considers the oath he has " taken as binding upon his conscience; " and can he be also asked, whether there " are other modes of swearing more bind-" ing on his conscience than the oath he " has taken?" I remember a case before Mr. Justice Gould—a person of some peculiar way of thinking in Scotland was called as a witness, I apprehend either at Newcastle or Northumberland; the man objected to be sworn in the usual manner, and gave a very singular reason. Mr. Justice Gould asked him what was the reason he objected to take an oath; he said he had taken an oath that he would take no oath—the learned judge was of opinion that as he had once taken an oath he must take an oath again; but on the man afterwards saying that the manner in which he pledged his conscience was by holding up his hand, he was pledged to his evidence in that manner.

The Earl of *Liverpool.*—My lords, I do not wish to give any opinion upon the point of law, particularly as it is about to be referred to the learned Judges. I would only observe, that the cases which have been referred to appear to have been all cases where the witness had made the objection himself. It does not appear, from any thing which has been stated, to have been usual for the court to interpose and put questions to the witness.

The question was handed to the Lord Chief Justice, and the learned Judges withdrew with it. During the absence of the Judges

The Earl of *Darnley* observed, that their lordships had, a day or two before, made an order to exclude any persons from being present at the proceedings, who might afterwards be required to give evidence. He thought it highly desirable that some similar rule should be adopted, to prevent communication, out of doors between those who had been examined at the bar, and those who had not yet been called on. It appeared to him highly important that these two classes of persons should be kept separate. He appealed to the noble lord opposite, whether the proceedings against her majesty ought not to be conducted with every judicial form and solemnity; and whether, in order to that end, the adoption of some rule, such as he had suggested, was not necessary?

The Earl of *Liverpool* replied, that it was impossible to prevent persons in the situation of the witnesses from getting together. Such persons naturally associated with one another; all that the House could do in the case was, to direct the parties to take care that the agents on each side should give strong injunctions to the witnesses, in the circumstances described by the noble lord, not to hold any conversation together.

The Earl of *Winchelsea* thought it advisable, for the purpose of enabling the House to understand the relative situations of the apartments and doors on board the ship, that a correct sketch should be taken, and laid before the House. Such a step would tend very much to shorten the proceedings.

On the motion of the Lord Chancellor, the following resolution was agreed to:—" That in case any prosecutions shall be commenced in any courts after the conclusion of the proceedings in this House, touching the bill intituled 'An Act' (reciting the title), against any witness or witnesses who shall have been examined at the bar of this House, in support of, or against the said bill, touching any testimony given by such witness or witnesses at the bar of this House in respect thereto, this House, any privileges of this House notwithstanding, consents that evidence may be given thereof in any such prosecutions, and also that evidence may be given of all such proceedings of this House, touching the said bill, as may be required to be given in the said courts in support of, or in defence, in such prosecutions."

After sometime the learned Judges returned.

Lord Chief Justice *Abbott.*—My lords, the judges have considered the questions proposed to them by your lordships, and they have taken the liberty to detain your lordships while they sent for books, in order that they might consult the authorities referred to in the course of the argument before your lordships. My lords, the judges are of opinion,

that the most correct and proper time for asking a witness whether the form in which the oath, as about to be administered to him, is one that will be binding upon his conscience, is, before that oath is administered; but inasmuch as it may occasionally happen that the oath will be administered in the usual form by the officer of the court before the attention of the court or party or counsel is directed to it, we think that the party ought not to be precluded; and therefore, my lords, in answer to your lordships first question, the judges are of opinion, that although the witness produced in a court of law shall have taken the oath in the usual form, as therein administered, without making any objection to it, he may, nevertheless, be afterwards asked, whether he considers the oath he has taken as binding upon his conscience. I am further to inform your lordships, that the judges are of opinion, that if the witness, in answer to that question shall declare in the affirmative, namely, that he does consider the oath he has taken as binding upon his conscience, he cannot then be further asked, whether there be any other mode of swearing that would be more binding upon his conscience than that which has been used.

Speaking for myself, not meaning thereby to pledge the other judges, though I believe their sentiments concur with my own; your lordships will allow me to speak in my own person; I conceive that if a witness says he considers the oath as binding upon his conscience, he does in effect affirm, that in taking that oath he has called his God to witness that what he shall say will be the truth; and that he has imprecated the Divine vengeance upon his head, if what he shall afterwards say is false; and having done that, that it is perfectly unnecessary and irrelevant to ask any further questions.

The Witness was examined by the *Solicitor-General* through the interpretation of the Marchese di Spineto.

Were you master of the polacre called the Industry? Yes.

Are you also the owner of that vessel? Yes, I am also the owner; but she is now no longer called The Industry, but is called Abramo, because I have turned her into a Brigantine.

Was that vessel engaged for the purpose of conveying the princess of Wales and her suite on the voyage from Augusta to Tunis, and afterwards to Greece? This polacre was hired at Messina, where she was fitted out, and at Augusta her royal highness embarked for Tunis and Greece.

Before her royal highness embarked on board the vessel at Augusta, had the arrangement of the cabins been made by you? Yes, the distribution of the cabins was made at Messina.

Before the princess embarked on board the vessel for the voyage at Augusta, did she, attended by Pergami, come on board the vessel? She came at Augusta.

Did she view the arrangement of the cabins which had been made by you? She did; nay, she ordered the door in the dining-room to be closed.

Before that door was closed, how many doors led from the body of the vessel into the dining room? Two, one to the right and another to the left.

Which of the two doors was it that she directed to be closed? The door that was on the left.

Do you mean on the left, as you look towards the prow of the vessel? On the left when from the poop you look to the prow.

In what way was that door closed, was it merely locked or was it closed up, so as not to be opened during the voyage? It was nailed up.

Was there any cabin contiguous to the dining room on that side of the vessel where the door was nailed up? There was the line of the cabins that ran towards the prow, which formed the line on the left hand of the ship.

Can you tell after the suite embarked on board the vessel, who it was that occupied that cabin nearest the door which had been so closed? The two maids, Mlle. Demont and Mlle. Brunette.

Can you tell us who occupied the cabin on the opposite side next to the door that was left open? Pergami.

After the door had been closed, in the manner you have described, was there any mode of going into the dining-room from the body of the vessel, except through that door that was near the cabin of Pergami? There was the ladder that came from the deck into the dining-room, and there was the door which led near to Pergami's room.

Did the ladder which came from the deck go directly down into the dining-room, or was there a door at the foot of it shutting the steps from the dining-room? The ladder came directly into the dining-room, but at the top there was a hatchway, which, when it was desired to be shut up or closed, might be closed to stop the communication.

Then when that hatchway was closed, was there any other communication except through the door by the cabin of Pergami? There was no other.

Beyond the dining-room, towards the stern of the vessel, how many cabins were there? There was another room divided into two apartments; on the right hand was the bed of the princess, on the left the bed of the dame d'honneur.

What kind of bed was it that the princess occupied, was it a single bed, or was it a double bed? Two sofas joined together, that would make together six palms and a half; it was about the breadth of six feet and a half.

Did Pergami continue to occupy the cabin so assigned to him for the voyage, or did he afterwards change his sleeping apartment? A few nights he slept in his own cabin, then

he passed to sleep in the dining-room upon another sofa.

Where was the sofa on which Pergami slept in the dining-room, after he had thus changed, situate? On the right hand.

Was it so situated, that a person lying in the bed occupied by the princess would be seen by a person lying in the bed occupied by Pergami, or was it not? If the door of the room of the princess had been open they would have seen each other.

Do you know the length of an English foot? I do.

About how many English feet, not speaking with perfect accuracy, were they from each other? Ten or twelve feet.

Did any person sleep in the dining-room, or within and beyond the dining-room towards the stern, except Pergami, the princess, and the countess of Oldi? No, Pergami slept in the dining-room; her royal highness slept in the room in the stern on the right hand, and the dame d'honneur slept in the stern in the room on the left hand.

Did this occupation of beds continue during a great part of the voyage.

Mr. Williams objected to the question as leading.

Mr. Solicitor General.—How long, to the best of your recollection, did that occupation of the beds continue? Till June; the princess came on board towards the end of March, and it continued till June; then at the departure from Constantinople, the air became warmer, and the princess preferred to sleep on deck under a tent; but after her departure from Jaffa, where seven horses with two asses were brought on board, she always slept on board on the deck under the tent.

What bed or beds were placed upon the deck under the tent of which you have spoken? A sofa for the bed of the princess, and a travelling bed that the princess had was put up for Pergami.

You have told us that until the month of June, the princess and Pergami slept below; and you have told us, that after leaving Jaffa the princess continued to sleep on deck under this tent; where did Pergami sleep after the leaving of Jaffa? Under the tent together with the princess in the two different beds.

Mr. Brougham stated that there was a difference in the interpretation.

Mr. Solicitor General.—Have the goodness to repeat in Italian what the answer was.

Interpreter.—"Sotto la tenda unito alla principessa," adding "con due letti devisi." I have said under the tent, "unito;" I have explained to your lordships, that I took it as an adverb "together;" and in order that your lordships should not mistake my meaning, I said he means, together with the princess, but not in the same bed; and I immediately applied to the witness, and he told me that he meant in the two beds.

Mr. Cohen.—My only objection was, that "unito" would mean joined.

Mr. Solicitor General.—How long did Pergami continue to sleep in this manner? Until they landed at the Porto d'Anza in the pope's dominions, thirty miles beyond Terracina.

At night was the tent open, or was it closed all round? During the night the tent was closed, shut as a pavilion.

Who was it that usually closed the tent at night? I was commanded to close it, and I commanded to others.

Was it so completely closed, that persons on the deck could not see within, or was it at all open? It was my care to close all openings; and when I could not do it with curtains, I did it with pins.

Interpreter.—By curtains, I understand him to mean sails.

What do you mean by curtains? Other pieces of sail.

About what time in the morning was the tent usually opened? About eight.

Were you often present at the time when it was opened? Often I was.

Did you upon those occasions see the princess in the tent at the time of the opening? Yes.

Upon those occasions was she always up, or sometimes on her bed? For the most part I have seen her sitting on the bed.

At the times when the tent was opened, and when you were present, where was Pergami? Under the tent coming out.

Was he always entirely dressed, or in what manner? I have always seen him entirely dressed.

In what species of dress have you so seen him? On deck he went with a Grecian robe of silk, which he bought at St. Jean d'Acre; but when he went on shore, either he wore a coat, or was dressed as a colonel.

After the tent was closed at night, in the manner you have described, was any light occasionally or generally left within the tent? No.

It is not asked whether any light remained under the tent all the night, but whether there was any light there at the time the tent was closed to the best of your recollection? When the tent was closed, if there were light airs, no wind, the light was given from out of the tent; if it blew hard, then the light was carried away by the ladder.

Can you recollect who it was that was in the habit of taking the light from out of the tent upon those occasions, when it was delivered out upon the deck? Whoever was present; sometimes I have taken it myself.

How long, to the best of your recollection, did the light usually remain after the tent was closed? Ten or twelve minutes; it remained a short time.

Do you know who it was that usually handed the light out? Pergami.

Do you recollect whether in the day-time the princess sometimes sat or lay upon the bed under the tent? Often; she ordered

that the tent might be made as a pavilion, because in the morning it was raised up as a ceiling.

You have told their lordships, that the princess often sat or lay on the bed during the day-time, did she do this after dinner? Yes, after dinner.

Have you seen Pergami there at the same time? Yes.

In the day-time? Yes, during the day.

Have you ever received any directions during the day-time, when the princess and Pergami were under the tent, as to closing it? Yes.

Have you in consequence of those directions closed the tent with the princess and Pergami within it? Yes.

Did you do this frequently, or only seldom after dinner? In detail, I cannot say always or seldom, but it was three or four times a week.

With the princess and Pergami both inside the tent? Both the princess and Pergami.

Can you state upon those occasions about how long the tent was continued closed? About half an hour, a quarter of an hour, or an hour; the time was not certain, not the same length of time always.

Upon those occasions, upon closing the tent, have you ever seen the princess and Pergami both upon their beds?

Mr. *Williams* objected to the question as leading.

The *Solicitor General* submitted this was not a leading question, but expressed his willingness to alter it.

You have told their lordships you have seen the princess on the bed in the day-time, at the time when you were closing the tent? Sometimes I saw her upon the bed; sometimes I saw her standing when the tent was closing.

As to Pergami? For the most part he was lying on the small bed.

Did you close the tent leaving them so? Yes.

Have you on any of those occasions seen Pergami afterwards come out from the tent? I have.

In what position have you seen Pergami lying on the bed; have you ever seen him lying on his back, on his side, or how? Lying on his back.

Do you remember, on any occasion when you saw Pergami lying on his back, in the manner you have described, receiving any directions from the princess as to closing the tent? I remember that Pergami was lying on the bed on his back, her royal highness sitting near Pergami; the count Schiavini was walking near the tent, on the opposite side, and, having received the order for closing the tent, count Schiavini delivered this order to me.

Did you, in consequence of this, close the tent upon the princess and Pergami, so lying as you have described? Yes.

Do you remember Pergami afterwards coming out of the tent? Yes.

About how long after? About the time I have mentioned, a quarter of an hour, half an hour, or an hour; this happened many times.

Upon the particular occasion to which you have now referred, of being directed by Schiavini to close the tent, do you remember afterwards Pergami coming out, and how long was it after you closed the tent before he so came out? About a quarter of an hour.

Did the princess ever take a bath on board the vessel? She did.

Did she do that more than once, to your recollection? More than once.

Do you remember her going below for that purpose? Yes.

State who went below with her? Pergami.

Upon all occasions which you remember of the princess going below for the purpose of taking a bath, was she or was she not accompanied by Pergami? I have always seen her accompanied by Pergami, not only when she was to take the bath, but for any other thing she was doing.

Were there other occasions, then, besides the bath, that rendered it necessary for the princess to go below? The greatest reason was that for going to the water closet; for the water closet was down below.

For whatever purpose she went below, was she, or was she not, always, to the best of your recollection, accompanied by Pergami? She was.

Have you at any time seen Pergami sitting on the deck? Yes.

Have you ever seen the princess with him upon those occasions? I have seen Pergami sitting on a gun, and the princess sitting on his knees, and that they were kissing.

Has this kissing, to your personal knowledge, been only once, or more than once? More than once I have seen them.

When the princess walked, did she take the arm of any person, and if so, of whom? The princess walking took the left arm of Pergami for the most, nay, always, for I have never seen her take the arm of any one else.

Have you ever seen, during the voyage, any jokes, any thing jocular, done by Pergami? I have.

Did you ever see this in the presence of the princess? I have seen it.

Describe what it is you allude to? I have seen him once, under the Grecian robe that he had, put some cushions and pillows, and make some motions to make her royal highness laugh.

Where were those cushions placed; in what part? Round his belly.

Do you know what that was to represent?

Mr. *Williams* objected to the question, stating that the witness was not to state his opinions, but the facts, from which their lordships were to form their own opinion.

The counsel was informed that he might

put the question, whether he knows what this was intended to represent.

Mr. Solicitor General.—Do you know what that was intended to represent? He wanted to play some apish tricks to make her royal highness laugh, as well as all others who saw him.

Do you know what those cushions, placed in the manner you have described, were intended to imitate? As far as I know, it was a buffoon trick.

After this tent was erected upon the deck, in the manner you have described, where was the princess in the habit of dining? Under the same tent.

Who usually dined with the princess under the tent? Generally it was Pergami, and always Pergami.

Did those two persons generally dine alone, or with some other person? Sometimes they dined alone, sometimes there dined William, one that was reported to be son of her royal highness.

What was William called, either by her royal highness or in the presence of her royal highness? Some called him William, some called him Principino, the little prince, or the young prince, and sometimes I have seen her royal highness, when she was going to bed, give him some token of affection, as a mother does to her child.

During the time that the princess and Pergami slept on deck during the night, where did the little Victorine sleep? As the room for the maids was for two maids, so when her royal highness wanted to sleep on deck, one of those maids went to sleep in her royal highness's room, and Victorine went to sleep in the same room with her.

Do you mean in the cabin of the princess below the deck, and adjoining to the dining-room you have before described? Yes.

Mr. Cohen assented to this interpretation.

Do you remember the Christian name of Pergami? Bartholomew, whose festival is to-day.

Do you remember any thing that took place on Saint Bartholomew's day, on the voyage in question? I remember to have been at anchor at Syracuse from the Holy Land, and that night there was a general illumination on the ship, as far as it was possible; Pergami rendered the crew all merry, they all got drunk, and he gave a dollar a-piece to each of the sailors; there was no other thing.

Do you remember any shouts? When they were drunk, the sailors shouted "Live the Princess," "Live the Chevalier."

While this was going on, those rejoicings and those shouts, what were the princess and the chevalier doing, were they together? Pergami was walking on the deck applauding the sailors, the princess was sitting under the tent, which was raised like a ceiling.

Do you remember the princess walking about at that time on the deck? I remember her also walking, for she could not be always sitting.

With whom did she walk? With Pergami.

Did she merely walk side by side, or arm-in-arm? Arm-in-arm.

Do you remember Pergami landing at Terracina? I remember to have seen him embark in the launch which I sent on shore, and I remember to have seen the launch return without Pergami.

How long did he remain absent? Three days.

About what time of the day or the night was it he returned? During the night at Porto d'Anza.

About what hour? About ten o'clock.

Was the princess on board at that time? The princess was on board, and under the tent.

Where did Pergami go upon his coming on board? The princess went to meet him at the top of the ladder, and they went both together under the tent.

Was the tent afterwards closed? They supped first, and afterwards the tent was closed, and they went to lie down, and in the morning they landed.

Did they remain under the tent all night? Yes.

Did you go on shore at Jaffa or at St. Jean d'Acre? I have landed at St. Jean d'Acre and at Jaffa.

Did you go on the journey to Jerusalem with the princess or not? No.

No part? I saw her mount, and then I went on board, and they took the road to Jerusalem, and I returned on board.

On the return of Pergami on board the vessel, after the return from Jerusalem, do you know whether or not he had any new title or order? Yes, he had the order of the Holy Sepulchre.

Any other? No other, but on board was instituted the order of St. Caroline, which had been spoken of at Jerusalem.

Do you know from any thing you heard from the princess, or in the presence of the princess, what rank Pergami had in that order of St. Caroline; what station he held? Grand master of the order.

Have you ever in Italy been examined by any person as to the conduct of the princess and Pergami during this voyage? Yes, I have been.

At what place? At Milan.

Do you know the name of the gentleman by whom or before whom you were examined? Yes, by the advocate Vimercati.

Was colonel Brown present? He was.

About what time were you so examined? The latter end of December.

Last year? Yes.

Where did you go to after you had been so examined? I went to Naples.

Did you go about your own affairs, or what? Yes, about my own affairs.

Were you afterwards applied to to come here? I was.

Where were you at that time? At Naples.

When were you so applied to, as nearly as you can recollect? On the 21st of June I was asked to come here, and as this journey was too long, and could not be done on account of my health, for I suffer the gout, I gave to our minister a certificate of two physicians to exempt myself from it; the minister commanded me to come, and also made me to be commanded by the minister at Milan, the marchese Circelli, who has given me a letter for the Neapolitan ambassador.

Mr. *Williams* objected to these questions on the original examination.

The counsel were informed that those questions would be more applicable in re-examination, if the cross-examination led to them.

Mr. Solicitor General.—Where is your vessel at present? My ship at present is on her way from Puglia to Naples; my interest did not allow me to come here, for my ship was loaded on my account, and I had given orders that she should be unloaded at Reggio.

Cross-examined by Mr. *Williams.*

When did you leave the ship of which you have been last speaking to come here? I have left off sailing, and I have given myself to trade, so that my ship was loaded on my own account; I had an interest in half the cargo of my ship; that very ship which carried her royal highness is now commanded by Giacomo Pettotuzzi.

If you are rightly understood, you are now the owner or part owner of the vessel, and not the captain? I am the owner of the ship and the cargo I have left when I came here, one half of that cargo was my own.

You are understood to have said, that a certain person whom you have named is captain of that vessel now? Giacomo Pettotuzzi is the captain whom I had appointed.

From what place was it that you came to England, as you did not come from your ship? I was at Naples.

Is that the place to which you belong; is that your town? Naples is my native country, but I dwell in the Piana di Sorento.

Who was it that applied to you to come to this country? The minister sent a messenger to find me, because my commercial affairs are at Naples.

Did you see the minister? I did.

Name him? Sir William A'Court, the English ambassador at Naples.

Have you made any bargain with any person as to the sum you are to have? Yes, I have.

Have you made this agreement with the minister? During the five days that I have been at Naples, endeavouring not to come, I have told all my circumstances to the minister; but the minister being convinced of my situation, has appointed to me a thousand dollars a month; but I have already lost four thousand, because the cargo that I have sent to discharge at Reggio I have not sold at a price which I ought to have sold it. I have advanced money to Manfredonia to buy another cargo, and that has remained unemployed; and the minister has given me this paper at the last moment when I set out.

Do you understand English? No.

How often have you been in England before, if ever? Eighteen months before; I was once before in England with my ship.

Were you ever before that in England? No.

Only once then? Once before this; this is the second time.

Have you received any money in advance, or is this sum you speak of in expectancy? I have received one month.

In advance? I received it at Milan.

I understand you to say that you no longer go with the vessel, but that you have a captain on board that vessel; how is it that the captain could not go with the vessel without you? The captain navigates the ship without me, but he receives the order from me, and as soon as I am absent he cannot receive such an order, and acts according to his pleasure.

If you are understood right, you left the vessel actually performing a voyage? I left my ship which had sailed from Manfredonia to go to Reggio, where she was going to discharge her cargo; after having arrived here I have learned that my captain has sold the cargo at less per bushel than was the price, at five carlini less per bushel than was the price.

Interpreter.—Five carlini is about twenty-five pence, as a carlini is five-pence of this country.

Do you mean to say, that if you did not come to England it would have made any difference as to the sale of that cargo? Yes, that for one reason; a second reason, if I had not set out for England I would have continued my commercial affairs, for I have left my country just at the time of the harvest; and I advanced money to Manfredonia to buy corn, and by this time, if I had not come here, I would have gained as much as to compensate me for the loss of 8,000 dollars which I made in the year 1818.

Explain, if you can, how your coming to England makes any difference as to the profit or loss of that voyage? Yes; I had ordered the captain to sell the cargo at not less than twenty-four carlini per bushel; the captain having arrived at Reggio, and hearing that I had gone away, has taken upon himself to sell at twenty-one carlini, and since my arrival here I have heard that the price of corn was raised to twenty-six carlini, and now I am told it has reached nearly to thirty.

Do you mean to state that your being here affects the price of corn in Italy? [A murmur through the House.]

Mr. *Williams* was not aware that this question was irregular.

The *Lord Chancellor*.—There is no objection to the learned counsel's question.

Mr. *Williams* observed, that it was usual for silence to be observed in those courts with which he was familiar—in those courts where the judges presided; their lordships would therefore excuse him if he did not quite understand the interruption.

The Marquis of *Downshire* was of opinion, that every indulgence and facility should be extended to the learned gentlemen who were engaged in this investigation. It was on this occasion the duty of the House to act with the utmost impartiality. Every part of the proceedings now pending before their lordships should be marked with the greatest possible attention; and it was of essential importance to the interests of justice that the evidence on both sides should be given with the utmost clearness.

The Earl of *Liverpool* certainly thought, that, when any question struck noble lords to be objectionable, the objection should be openly made, instead of manifesting any expression of feeling. A contrary course made that sort of impression on those who were not accustomed to their lordships' proceedings which created embarrassment. He was sure that no intention existed, on the part of any noble lord, to produce such an effect. But he conceived that their lordships ought to have a proper command over themselves, and that an entire silence should be maintained, except where a just reason for interruption could be shown; and, in that case, the reason should be stated. He made this observation, without alluding to any particular examination or cross-examination, but applied it to the whole of these proceedings.

Then you mean to state, that the captain has disobeyed your orders, and that you have in consequence lost the sum you have stated? It would have been a disobedience if I had been present; but as I was not present, he has not foreseen; I would have foreseen; and has suffered himself to be deceived by those who were present, and has caused me that loss.

Have you not said that you gave an order to the captain? Yes.

Which order the captain has broken? He has disobeyed this order immediately after he heard I had set out from Naples for England.

Do you mean to represent, that when you made the bargain for one thousand dollars a month, you foresaw any thing of this that you have heard since? I have always foreseen an evil, for I did not wish to come here, not only on account of my health, but also on account of my interest.

Where was the sale of the cargo? At Reggio.

How far is that from Naples? Reggio is opposite Messina; on the straight line it is 190 miles distant; by land, going a circuitous route, it is more than 300 miles.

When did you last see Gaetano Paturzo? The last time I have seen Gaetano Paturzo, was here in London.

At what time? Two days.

You did not see him yesterday? I had not seen him before I saw him here; I had not seen him for eighteen months.

When did you see Paturzo last; the day, hour, or the minute, if you can state it? Last night we supped together, and last night we slept together: that is, in two rooms adjoining to each other.

You did not breakfast with him this morning? On the contrary, I have taken my coffee with him this morning.

You have had no talk upon the evidence that Paturzo gave yesterday? No, because Paturzo would not tell what he said, nor am I a person to state what I am obliged to say in this room.

Did you inquire of Paturzo what he, Paturzo, had said? No.

What do you mean by saying that Paturzo would not tell you? Because I had told him to say the plain truth that he knows, as I have also come into this place to say the plain truth, upon which I have taken my oath.

How could you tell that Paturzo would not mention what he, Paturzo, had mentioned here, unless you had asked Paturzo? I have said he would not tell, but I meant to say that the matter cannot be told.

Mr. *Cohen* said, that he agreed in this interpretation.

Marchese di Spineto.—That the subject was of such a nature, that it cannot be talked about; that is the meaning in which Mr. Cohen and I agree.

Mr. *Williams*.—Did any body tell you not to speak to Paturzo about what Paturzo said here yesterday? No, I have told Paturzo myself by my own act, without being prompted by any body, not to talk about it.

Do I understand you right that you told Paturzo, "Now mind, Paturzo, you and I do not say one word about your examination of yesterday"? This is very natural; for to tell to others all those things which we say in this House is not decent, it is not creditable.

You say you told it of your own accord to Paturzo; did you tell Paturzo last night or this morning, that it would not be fit for you and Paturzo to talk about his examination of yesterday? Yes, upon this matter.

Had you no curiosity to know from Paturzo who examined him, or what sort of a man Mr. Attorney-General or Mr. Solicitor-Ge-

nesal was? That does not belong to me to ask those things; for all my attention, I have thought of nothing else but that I was obliged to make this appearance before these gentlemen, these lords.

You thought so entirely about that, that you could think and talk about nothing else? Before these gentlemen, no other.

Have you been in this room before? Yes, but there were no gentlemen here.

When were you in this room before? On Sunday.

Who came with you? A gentleman has brought me to show me the curiosities, not only in this room, but even where the coronation is to take place, to see those places.

Was it an Englishman, or who, who brought you?—An English gentleman.

Do you know his name? Who is he? No.

Do you know his person? I know his person.

Have you seen him before you came before their lordships this morning? I think not.

Have you looked about you to see? I have not.

Should you know his name if you heard it? Because it is a person whom I know, but I should not by name; even if his name was mentioned I should not know it.

How often have you seen him? I have seen him often, many times, but always transiently, because I do not understand his language, nor he mine.

Did you see him at Milan? No.

Only since you came into this country? After arrival in England.

When did you arrive in England? On the 14th instant.

When were you examined as to what you had to say? I was examined at Milan.

Have you not been examined since you came to England? Yes, but verbally so.

Who examined you? A gentleman whom I do not know.

That was not the same gentleman who showed you this place, was it? No.

Look in that quarter to see who it was who showed you this place? The person who is called major domo; I do not know by what name he is called.

Do you see that person? No.

What did you mean by turning and pointing to that gentleman behind you? Because he examined me. [Pointing to Mr. Bourchier, one of the solicitors of the Treasury].

Do you see the person who showed you the room? I do not.

Who came with you from Naples to this country? I have come with the king's messenger and my own servant.

Who paid for the expenses of the journey from Naples to this country? The king's messenger.

Did you see colonel Brown before you came from Italy to this country? Yes.

Were you examined then, just before your departure, by colonel Brown? No; colonel Brown examined me last year, in December, as I have said before.

And a certain lawyer, Vimercati, was present, was he not? Yes; Vimercati put the questions in the presence of colonel Brown.

Were your answers put down in writing? I believe so.

Were you sworn to the truth of them? I subscribed my name at the end of the paper; but I did not swear to it.

That was in the presence of colonel Brown and Vimercati? Yes.

Have you seen this lawyer Vimercati since you were examined? No; now that I passed through Milan I have not seen him.

You have not seen Vimercati since you were examined by him in December? No.

Did you see any other person on the subject of your testimony except colonel Brown and Vimercati? No.

The question refers to the subject of the princess of Wales? I have seen no other but Vimercati and colonel Brown.

As you passed through Milan in your way hither, did you see colonel Brown? Yes.

Had the colonel at that time the examination which you gave and signed in December? I have not seen it.

Nor any paper at all? No.

Have you never seen it since December? No.

You have never seen the examination taken in December from that time to the present? I have not seen it, and even now I do not see it.

Re-examined by *Mr. Solicitor-General.*

You have stated the sum which you have received, and are to receive, as a compensation for your time and trouble and loss in coming here; according to the best judgment you can form, is that more or less than a fair compensation for such loss? According to the success of my trade this year it is not sufficient, what I have for what I lose.

It was proposed as an arrangement, that when the re-examination of the counsel had closed, each of their lordships should put all the questions he had to propose, before any other lord put any question, and that he should not afterwards put any question unless under special circumstances, and under the leave of the House.

It was assented to, that their lordships should each in their turn put the questions they proposed, as far as they were prepared to do so, but that they should not be obliged to ask permission afterwards to put other questions; it being understood however, that their lordships should not put further questions, unless any thing arose out of the further examination to occasion it.

Examined by the *Lords.*

Earl *Grey.*—What were you paid by the princess of Wales for the time your ship was

in her service? Seven hundred and fifty dollars per month, and all port charges paid.

You have stated, that after the tent was shut, the princess and Pergami remained the whole night under the tent together; at the time the tent was shut were there any other persons then in the tent? No.

How do you know that Pergami remained there the whole night? Because it was seen; because, when the tent was covered, he remained under with the princess.

You were understood to say, that you saw Pergami under the tent when it was shut, and saw him again in the morning; did you ever see him in the intermediate time? No.

Was there any communication with any other part of the ship from the tent, without coming upon the deck? There was; there was a communication by a ladder, which led into the dining-room.

Was it possible for Pergami to have left the tent by that communication, without your seeing him? It might have happened, though the passage was small, but I do not know whether he has done so.

Lord *Ellenborough*.—Was Pergami's bed ever prepared for him in the dining-cabin from the time the ship left Jaffa, till the time she arrived at Capo d' Anza? Never; once I remember that it was bad weather, and they were obliged to come down below, and they went into the cabins.

When the bad weather obliged Pergami to go below, did the princess go below likewise? Both together went down below.

The question is not whether Pergami's bed was ever prepared in the dining-cabin, but was it ever prepared for him below under the deck, after the vessel left Jaffa? No.

Earl of *Rosebery*.—You have stated, that in blowing weather the light was put down the ladder; do you know who took the light upon that occasion? Theodore or Carlino; Theodore who has also been here; or Carlino.

Lord *Auckland*.—You have stated, that you received 750 dollars for the use of your ship, was that sum meant to cover all the expenses of navigation? I have got a great deal to say upon this particular point.

State those particulars? The freight of 750 dollars per month is very low, I agreed to the price of 750 dollars per month as certain; but when we take on board royal personages, we trust more to the uncertain than to the certain profits; upon those uncertain profits I have been disappointed, and I have made some applications, some demand, and in this way the English government have known that I am, what I am, that is, that I am Vincenzo Gargiulo.

What do you consider to be the expenses of navigating such a ship by the month, taking in the pay of all the officers and men, all except the harbour dues? My crew consisted of two and twenty hands, those two and twenty persons, taking one for another at ten dollars per month make 220 dollars per month, to feed so many hands it requires at least so much, especially that year, it being a year of great scarcity: then there are the expenses of wear and tear, the expenses of wear and tear on that occasion were also very high, for we must have enough, in regard to sails, and as to anchors, to carry a press of sail; then there is the keeping of the ship, for the royal personage on board it was necessary to keep things in more tight or clear order; then if you will take into consideration the insurance, which upon a ship that cost me 10,000 dollars, is at least one per cent; if you put together all these expenses, you will find there remains hardly any thing out of these 750 dollars.

Marquis of *Lansdown*.—Having stated that you were disappointed in the profits you expected, from having her royal highness the princess of Wales on board your ship, did you, in consequence of that dis appointment, make any application for compensation, either to her royal highness or any person acting for her? To her royal highness I did not make any application, because she dismissed me, and granted me a certificate of good service; and this was on account of Pergami, because they wished that I should have carried them to Venice at the departure from Rhodes; the princess commanded, for the princess always commanded what Pergami commanded, that they wished to go to Venice. In sailing, after leaving the island of Candia, the wind was continually from the North; remaining in that state we were going to have no more water, the water was going to be at an end, for I had forty-four people and nine horses; I told her, that as the water was near at an end, it was necessary that we should land; they did not wish to go to Morea, they did not wish to return to Candia, therefore they were obliged to go to Sicily; arriving in Sicily, they then passed across the Strait of Sicily and went to Naples, and from Naples to Capo d'Anza; Pergmai, on landing, because he had promised me 6,000 dollars, as a present by the means of the consul at Tunis, told me there was no present for me, because I would not take them to Venice; then when I came here last year, I gave a memorial to my ambassador count de Ludolph, and I stated that as I believed myself to have served the British government, because I had had the honour of having the English flag, I expected the present which I had not received; and on account of this memorial which I gave to count de Ludolph, the English government have known that I was Vincenzo Gargiulo of Naples.

Do you recollect, when her royal highness was on board this ship, to have at different times, upon one pretence or another, desired the mate Paturzo to withdraw from that part of the deck near where her royal highness and Pergami were situate? No, I do not remember, I do not know this business.

If you had for any particular reason been in the habit of directing P[illegible]zo, to withdraw from that part of the deck where they were,

under some pretence or another, is it not probable you would have remembered it? Now I understand it: once I remember to have seen her royal highness sitting and stooping on the bed of Pergami, and to have desired Gaetano Paturzo to go away, for it was not decent for him, who was a young man, to be present; because when I saw her royal highness stooping on the bed in that way, I sent away Gaetano Paturzo, who was a young man, not to see that thing which I thought indecent.

On that one occasion on which you recollect to have desired Gaetano Paturzo to remove from that part of the deck, were there any other persons near to that part of the deck—near to which the princess and Pergami were? There were other persons who walked that way; but I divided them all, and sent one one way and one another, that they should not see.

You are to be understood to say, that you desired all the persons, with the exception of her royal highness and Pergami, to withdraw from that part of the deck in which they were? All, except the princess and Pergami, who remained in that place.

Can you recollect any one person in particular, except Paturzo, whom you so desired to withdraw? I commanded it to my crew; but there was always the count Schiavini who was there to receive the commands of her royal highness.

The count Schiavini did not withdraw at the time of which you speak? No; because he remained always there.

When the tent was closed at night, was the hatchway at the top of the ladder usually shut or left open? Sometimes it was shut, sometimes not: I have seen it shut in the morning when the tent was open, because it was obliged to be shut after the tent had been closed.

At night, during the time the tent was closed, had you the means of knowing whether that hatchway was left open or shut? I cannot say whether it was closed or not: what I can say is, that in the morning when the tent was opened, I saw this hatchway closed sometimes.

Is the name of her royal highness affixed to that certificate of good conduct which you have? Her royal highness knew, it was written entirely in her own hand-writing.

Earl of *Oxford*.—In consequence of the memorial presented to your ambassador, have you received any compensation? I have received nothing; nay, my minister and the colonel to whom I have mentioned it, told me that they knew nothing, and that I might go to London, and then might see upon this particular.

What colonel do you mean? Colonel Browne.

Earl of *Donoughmore*.—You have said that at times when the princess and Pergami were together upon the deck you have thought it proper to desire your mate to retire; do you recollect on one occasion having desired your mate so to retire when the princess and Pergami were seated on the gun?

Mr. *Williams* begged to suggest to their lordships whether this question was not in an objectionable form.

Do you recollect to have ever seen the princess and Pergami sitting together upon the gun? Yes, I have said so.

In what situation were they placed as to each other? Pergami on the gun and the princess on his knees.

Did you on that occasion send away your mate? Always upon that occasion, whenever they stood still to look at such things I sent them away, one one way and one another.

Earl of *Lauderdale*.—Give in that certificate to which you have referred as written by her royal highness.

[The Witness delivered in the same.]

Lord Chancellor.—From whom did you receive that paper? From the princess of Wales at the Villa d'Este, when I went to her from Genoa.

Did she herself give it to you, or was it delivered to you by any other person? The princess herself wrote it in my presence, and the princess herself gave it to me.

The Certificate was read as follows:

"Son Altesse Royal, La Princesse de Galles Assur par ce Document ecrit de sa propre main que Elle a été contente des Service du Capitain Vincenzo Garguilo qui commendais la Pollaca nomé l'Industrie pendant son voyage.

"Caroline Princess de Galles."

"A La Villa d'Este,
"Ce 17 d'Octobre 1816."

Earl of *Lauderdale*.—You have stated that you saw the princess and Pergami under the tent, and that after you saw them in that situation Schiavini received orders to let down the tent; did that happen when the Princess was leaning on the bed on which Pergami was lying, and when you ordered your mate to withdraw? Yes, but this circumstance has happened more than once; it did not happen that once only.

Did Schiavini continue to walk in that part of the ship after the curtains of the tent were let down? Then he did not remain in the place where he was, but he went a little more to the stern, a little more to the bowsprit, or he went down into his own room.

The following question was put by their lordships, at the request of Mr. Williams;

Were you in the habit of going down to the dining-room every night, or every evening? No; that was not my place, or my business.

Mr. *Brougham* said, he had an humble application to make to their lordships, in

consequence of a communication which he had that moment received. He was anxious to ask one question of Theodore Majocchi without further delay, and, therefore, he hoped their lordships would order him to be called in. He had only one question to put to him, which might by possibility lead to one or two more. [Cries of "state the question."] If their lordships would allow him to examine this witness, he should have no objection to mention the questions he proposed to put: and the first question he wished to put was, whether the witness had been at Bristol at any time during the last year?

The Earl of *Liverpool* wished in such a case that the House should be chiefly governed by the opinion of the learned lord on the woolsack, and that of the learned gentlemen at the bar; but he would suggest, whether, if this course was acceded to, which was breaking in upon established rules, counsel ought not, in the first instance, to state not only the particular question, but the object of the examination.

The *Lord Chancellor* stated, that it became a very important question for their lordships consideration, whether the cross-examination was to be permitted to be taken piece-meal.

Mr. *Brougham* admitted that the application was out of the strict and ordinary course of proceeding, but pledged himself, that if it was granted he should not ask that witness any other question until he had opened his case; that he should be content with putting three or four questions to that witness, if permitted, at the present time.

The *Lord Chancellor* stated, that, with that pledge, their lordships would not refuse the application that had been made; that the counsel might suggest his question, and their lordships would propose it.

Teodoro Majocchi was again called in. He applied through the interpreter, to be permitted as a favour to assure their lordships, that he was ready to lay down his life in that place, if his former testimony was not correct. He was then cross-examined as follows, through the interpretation of the Marchese di Spineto.

Were you or not at Bristol in the last year, or in the course of this year? I do not know this Bristol.

Were you at Gloucester? Gloucester I knew very well.

Were you in the service of a gentleman of the name of Hyatt? Yes.

Did you ever declare to any person that the princess of Wales was a most excellent woman? Yes; that the princess was a good woman.

Did you ever declare that the conduct of the princess of Wales was highly becoming? Of her conduct I always said that she was a good woman, but she was surrounded by bad people.

Did you ever say that she was a prudent person, and that you never had observed any thing improper in her conduct? I do not remember at all whether I did say so.

Did you ever say that the princess of Wales always behaved herself with propriety? This I have never said.

Do you remember a gentleman of the name of Hughes; William Hughes at Gloucester, or at Bristol? This I do not remember.

Do you know a person of the name of William Hughes? I may know him, but I do not remember this name.

Do you know a person who was a clerk to Messrs. Turner, bankers at Gloucester? I do not know the name of this banker.

Do you know, or have you ever had any conversation with any clerk of any banker at Gloucester? This I do not remember.

Did you ever complain to any person at Gloucester that Pergami had kept part of the servants wages from them, in the household of the princess? Yes, I did.

To whom did you make this complaint of Pergami? Precisely I do not remember; but I remember that Signor Hyatt asked me why I had left the service of the princess, and then I answered him so; and then I remember to have added, after my return from the long voyage Bartolomeo Pergami wished to lower my wages.

Did you ever say the same thing, respecting Pergami and your wages, to any body besides Mr. Hyatt? I do not remember that I did.

Do you remember Mrs. Adams, Mrs. Hyatt's mother? Yes.

Do you remember Mrs. Hughes, Mrs. Adams's housekeeper? I remember that there was a woman who did all the business in the house, if this was her name.

Had she a son a clerk in a banker's house? I remember the son to come to pay a visit to his mother, but I do not whether he was in any bank, this I do not remember.

Did you ever tell this son of the housekeeper the circumstance respecting Pergami and your wages? I do not remember precisely whether yes or no, whether I ever complained myself of this man.

Did you ever represent to this young man that the princess of Wales was a most excellent woman, a prudent woman, and that you had never seen any thing improper or indecorous in her conduct? This I do not remember.

Did you ever represent to this young man, the son of the house-keeper, that the princess of Wales always, as far as you had seen her,

had behaved herself in a most proper way? This I do not remember.

Did you ever travel in a stage coach between Gloucester and Bristol, or between Gloucester and any other place? I remember to have travelled from Gloucester when I came to London, this I remember; when I came away on my departure.

Did you ever make any other journey in a stage coach from Gloucester to any other place than London? This I do not remember.

Were you ever asked, by any gentleman in a stage-coach, with respect to the deportment of the princess of Wales during the time you were in her service? This I do not remember.

Did you ever represent her, to any person in a stage-coach, as behaving herself very prudently? I do not remember to have ever spoke of these transactions.

Did you ever represent the princess of Wales to any person in a stage-coach as a much injured woman? This I remember no more no than yes.

Did you represent to any person in a stage-coach, or elsewhere, that you had been applied to, to swear against her royal highness the princess? What I remember of these things is, that I have never spoken of these things in any place; in whatever carriage I may have been, I do not remember to have spoken of these things.

Did you represent yourself to have been applied to, to swear against her royal highness the princess of Wales, to any person in any place, whether in a stage-coach or any other place? I do not understand what you mean by the word jurare.

To give evidence? At what time.

Did you ever say to any body that you had been applied to, to give a deposition against the princess of Wales? I cannot understand what this term means; I cannot understand what this thing can mean.

Did you ever say to any body in England that you have been applied to, to give an account respecting the princess of Wales upon oath? In England; no, never.

The question is, not whether any body ever in point of fact in England applied to you to be sworn, but whether you ever said to any body in England that you had at any time or at any place been so applied to?

The *Solicitor-General* stated, that apprehending it was the intention of Mr. Brougham to obtain answers from the witness with a view to contradicting him, he submitted it was necessary the name of the particular party and the place should be mentioned in the question.

Mr. *Brougham* stated, that he did not admit that this was the rule, but submitted, that as the witness might not have known the name of the person to whom he said it, if the witness swore that he did not say so to any person, he should be at liberty hereafter to call any person to state that he had so stated to him; but that at the same time if he was informed of the name of the person, it would be his duty to put it to the witness.

The *Lord Chancellor* stated, that it had been ruled in the Court of King's-bench, that counsel ought, in the first instance to name the person referred to, for that a person might sincerely state, that he never had had such conversation; but that if put in mind of having been with a particular individual at a particular time, he might immediately recollect the conversation, and his former answer might be no slur upon that testimony.

The following question was proposed through their lordships at the suggestion of Mr. Brougham.

Did you ever say to Mr. Johnson in the stage-coach, that you had been applied to, to appear as a witness against the princess of Wales? I swear that I do not know this name, and this man I do not know, either the name or even the circumstance of taking this oath.

Did you ever say to any person, "I have been applied to, to be a witness against the princess of Wales," or words to that effect? Never.

Did you ever say to Mr. Johnson or any other person in a stage-coach in England, "I have had considerable advantages offered to me, if I would be a witness against the princess of Wales," or to that effect? I lay my head or my life there, this offer has never been made to me by any one.

The question is not whether an offer was ever made to you, but whether you have said that an offer was made to you? I lay my life if I have ever said so.

The Marchese di Spineto was desired to state the answer in Italian.

Interpreter.—"Io metto la mia testa che se io non ho fatto questo discorso di giuramento." I lay my head, which means my life, here, if ever I have made this discourse about an oath; he repeats now, I never made this discourse with any body concerning an oath here in London.

Did you ever say to Mr. Johnson in a stage-coach, that you had been offered a sum of money, or a situation under government, for giving evidence against the princess of Wales any where? But if I do not know even the name of this Johnson.

Did you ever say to any person in a stage-coach, that you had been offered a sum of money, or a situation under government, for giving evidence against the princess of Wales? I lay down my life if this be true; and to you, I will answer no more, because you ask me things I have never dreamt about; things that have never entered my head.

Had you ever any conversation with any body in a stage-coach, respecting her royal

highness the princess of Wales? I never spoke about the business of the princess of Wales in a stage-coach.

When you were travelling by a stage-coach in England, did you ever at an inn speak upon the subject of the princess of Wales? Never about the affairs of the princess of Wales, I never have meddled with those discourses.

Did you ever in a diligence, or at an inn, when you were travelling by a diligence, say that you expected money, or a place under government, for giving evidence against her royal highness? Never, never this.

How long were you in England at that period when you lived with Mr. Hyatt at Gloucester? This I cannot remember, because I have not the book in which I have marked the time.

About how long were you in Mr. Hyatt's service? This is the same answer, because I have not the book in which I put down how long I was there.

Mr. Brougham returned thanks to their lordships for the indulgence he had received.

The Solicitor-General requested the following questions to be put:

Did you come from Vienna to this country as the servant to Mr. Hyatt? It is Mr. Hyatt who brought me here.

Did you continue in the service of Mr. Hyatt till you set off to return to Vienna? Yes, till that moment; and he paid for my fare in the coach to London.

Examined by the *Lords*.

Lord *Ellenborough*.—When you spoke of her royal highness as a Buona Donna, and a prudent woman, did you allude to her royal highness's moral conduct as a woman, or to her behaviour towards you as a mistress? When there was discourse respecting the princess of Wales, I always said she was Buona Donna; for if I had said she was Cattiva Donna, they would have fixed a quarrel upon me.

The witness was directed to withdraw.

Mr. *Brougham* stated, that in putting the questions which he had proposed to the witness, he had not done so under the slightest suspicion that any person had offered him a place under government, but with another view, which might be perceived.

Then *Francesco Birollo* was called, and having been sworn, was examined by Mr. Parke as follows, through the interpretation of the Marchese di Spineto.

Of what country are you a native? Of Vercelli.

In what country? In Piedmont.

In what employment were you when you were applied to, to come here? I was at the service of my master.

What master? Marquis Incisa, a Piedmontese nobleman.

Were you at any time in the service of her royal highness the princess of Wales? Yes.

In what capacity were you in her service? Cook.

At what time did you enter into that service; in what year? When she came from Venice; I do not remember the year.

How long did you continue in her service? About two years, or two years and a half; I did not stay two years and a half, but precisely I do not know.

By whom were you hired to go into the service of the princess? Signor Pergami.

Were you acquainted with signor Pergami before that time? Yes.

What was signor Pergami when you first knew him? He was in the same service with me.

Was that in the service of general Pino? It was.

In what capacity was Pergami acting in the service of general Pino? His valet, because he came down into the kitchen, to get the dishes to wait at table; then afterwards he took the situation of courier.

How long were you with Pergami in the same service at general Pino's? I was at the service of general Pino, and he was at the service of the countess of Pino.

How long did you know him in the service of the countess of Pino? I cannot tell, because I went out of the service of general Pino and he remained still in the family, for he became courier.

How long was Pergami in the service of the countess of Pino before you left count Pino's service? I do not know, because when I went into the service of general Pino he was in the service of the countess, who married one another.

How long were you in the service of general Pino? I have served him three times, once when he was minister at war, another time when he was with the army of Moscow, and a third time I served, but I do not count that as a service.

Was Pergami in the service of the countess at all those three times when you were in the service of the count? Yes, the only difference was, that I was paid by general Pino and he was paid by the countess of Pino, but we were all in the same service and dined together.

For how many years before you entered the service of the princess of Wales had you known Bartholomew Pergami? I did not see him before; I had known him at the time when I entered into the service of general Pino, when general Pino took the countess Pino for a wife; before I did not know him.

How long was that before you entered into the service of the princess of Wales? I do not know; having served another master, I do not know; I had to work, and it was impossible for me to remember all those things.

At what place was it that you were taken

into the service of her royal highness? When she went to the Casa Formigine, opposite to the house Boromeo, when she came from Venice the first time.

Were you with her royal highness at the Villa Villani? I was.

Were you at the Villa d'Este? I was.

Did you accompany her royal highness in her voyage to Greece? I did.

Did you act as cook on that voyage? I did; but on board the two ships, the Clorinde and the frigate, I did not act as a cook.

Did you return with her royal highness from Greece into Italy? I did return; but before I returned I performed the office of cook on board the polacre.

Were you at La Barona with the princess? Yes.

At what place was it you left the service of the princess? At the Barona.

How came you to leave the service of the princess? Because it was the brother of Pergami who persecuted me, and then I could not stand the labour.

What do you mean by that, that you could not stand the labour? Because it was too much labour.

Do you recollect where the princess slept in her voyage out to Greece? I do, on board the polacre.

Before the princess went to Palestine, do you know in what part of the polacre she slept? Sometimes on deck, sometimes under the deck; sometimes she lay under the tent, and sometimes she lay down below.

Where was the tent which you speak of? It was there in going to the poop, but I have no knowledge of a ship.

What was the usual place where her royal highness slept, on her voyage from Jaffa to Italy? She always slept under the tent, except when we landed; because then, on land, she did not sleep under the tent, for we had horses, beasts, and other things; and she was under the tent on her return.

Do you know where Pergami slept on the voyage from Jaffa to Italy? In Jaffa, when we were on board this polacre, I saw him enter in the evening under the tent, and the tent was closed, and here was the princess, and he was sitting here.

Did you ever see Pergami in the morning coming out of the tent? Sometimes, but not in the morning early; about a certain hour he came out of the tent, and came there, on the forecastle to make water.

At what time in the morning was it that you saw Pergami come out of the tent? Sometimes I saw him in the morning early, sometimes a little later, when I was already at the kitchen, boiling potatoes for breakfast for the crew.

In what part of the vessel was your kitchen? Near the fore-mast.

Was the tent always there, or was it let down at any particular time? Sometimes it was taken up, or raised up.

Was the tent let down at night? It was.

In what way was the tent fastened down at night? The tent was closed, and was covered with several things, and it was all closed; and sometimes I could not see what they were, because I was attending my kitchen; and then, in going about, I saw what had been put round, and every thing was snug.

Did you ever see a light in the tent at night when it was closed? Twice I have seen the light put out of the tent.

Do you know who put the light out of the tent? How can I know that, I was at the kitchen, I saw only the light put out.

Do you know who received the light when it was put out of the tent? Either Theodore, or a man called Carlino.

When you saw Pergami in the morning come out of the tent, how was he dressed? He had on a gown which he had made in the parts of Greece, which was of silk.

The Counsel were directed to withdraw.

Ordered, That the further consideration and second reading of the said Bill be adjourned till to-morrow.

HOUSE OF LORDS.

Friday, August 25.

The Lord Chancellor took his seat, and prayers were read about a quarter before 10 o'clock.

Lord *Ellenborough* wished to draw their lordships' attention to certain observations which had appeared in a paper of yesterday (The Times), in which an imputation was cast on the character of a noble lord now absent, his wish being to state what perhaps that noble lord himself would already have stated had he had the opportunity of being present; and which would show that the imputation was unfounded, and at the same time that there was no inconsistency in the evidence given by the witness Majoochi. Their lordships would recollect that Majoochi stated that he went first from Milan to Vienna in 1817, in the service of the marquis Odescalchi; that he remained some time at Vienna, and went back to Milan; and that he was in the service of the marquis six or seven months before he entered into the service of the British embassy. If the dates were compared, it would be found that this brought him down to the month of March, 1818. Now he (lord E.) knew that lord Stewart landed in England in July, 1817, and he knew that he had business of his own which detained him in England and Ireland till February, 1818. Up to that period he had seen

him frequently; but it was besides matter of public notoriety, from the proceedings in Chancery, that lord Stewart had continued some time longer in this country, at least till after the month of March. But he did not leave England until some months subsequent to that date, and he himself met lord Stewart on the Dover road, in August, 1818. It was, therefore, impossible that lord Stewart could have been at Vienna during the period of the service of Majoochi with the marquis of Odescalchi, or that he could have any communication with him after he left Milan. There was, therefore, no contradiction in what had been stated by the witness on this subject. It would be found, that when Majoochi was asked whether he saw lord Stewart, he said he did not recollect, but that he saw his secretary. Now he begged it to be understood that in making this explanation he was far from throwing any reflection on the conduct of colonel Deering. Nor could he conceive how it could be stated as any thing derogatory from the character of a public officer, that he had endeavoured to secure to his government the examination of a witness whose evidence was required in a case important to the dignity of the Crown and the personal honour of the Sovereign. He had stated this much in order that it might be known that there was no contradiction in the evidence, and that what had been stated respecting the conduct of lord Stewart might also be known to be as false as it was base.

The Order of the day for the Bill of Pains and Penalties against her majesty, being read, and counsel being called in,

Mr. *Brougham* said:—Will your lordships permit me to state, that a very unfounded impression has gone abroad through the public prints respecting the re-examination of Theodore Majoochi, yesterday? It has been most incorrectly imputed to me, that I had re-examined that witness on the existence of a letter which I never saw, the fact being that I applied to your lordships for that permission, on depositions of most respectable persons.

The *Attorney General* said, that his learned friend had with reason complained of the imputations thrown upon him. He knew not whether their lordships had read the daily papers; if they had, they would see with what justice he (the Attorney-general) had to complain of the imputations thrown, particularly in The Times newspaper, on the law officers of the Crown, and the very improper comments given on the evidence brought before their lordships.

The Earl of *Lauderdale* did not know what had been stated in the papers, but he knew there were other publications of a very improper nature. In one of them, entitled "a Peep at the Peers," it was among other things of which he had reason to complain, stated, that he and his family received 36,000*l*. a year from the government, whereas he did not receive a farthing of the public money.

The *Lord Chancellor* adverted to the necessity of preventing a repetition of certain irregularities which had occurred during the last two days. As to the complaints against the conduct of the daily journals, it was difficult to say what course ought to be pursued. It was better to leave the subject for future consideration, when it might be specifically considered. As to the publication entitled "a Peep at the Peers" alluded to by his noble friend, he must say, that though he wished his noble friend had the 36,000*l*. a year, yet he never read so much falsehood before in his life, as was contained in that work.

Then *Francesco Birollo* was again called in, and further examined as follows by Mr. Parke, of counsel in support of the bill, through the interpretation of the Marchese di Spineto.

In the course of the voyage from Jaffa to Greece, did you at any time see the sides of the tent let down at day-time? Do you mean on shore.

On board the ship? Yes, I have seen them.

At what time of the day was that? In the morning, when I got up.

Did you see the sides of the tent at any time in the middle of the day let down? Also in the middle of the day I have seen it.

What persons were under the tent when it was so let down? As usual, there were Pergami and the princess.

Did you accompany the princess on shore when she went to Jerusalem? I did.

Did you go with her to Ephesus? I did.

Do you remember in what place dinner was prepared for the princess at Ephesus? I do not remember exactly the place, but I know that we had been at the consul's before Nazareth; but I do not know the names of the places.

Do you know where the princess dined at Ephesus? I do not remember; I was working for the family, and I did pay no attention to those things.

Do you remember where she dined at Scala Nuova? No; because I went before with the luggage, and I went on board ship.

After the princess returned to Italy, were you with her at the Villa d'Este? I was.

Were you also at the Barona? I was.

Before the time that you went on the voyage to sea; after that time had you opportunities of seeing the princess and Pergami together at the Villa Villani, the Villa d'Este, and the Barona? Before the voyage, no: because they possessed not yet the Barona.

At the Villa Villani and the Villa d'Este had you opportunities of seeing the princess and Pergami together before the voyage? I had.

On those occasions how did they conduct themselves toward each other?

Dr. *Lushington* objected to the question as leading, that it was too general, and ought to be made more pointed, that it was a summing up of the whole.

Mr. *Parke* was heard in support of the question.

The *Lord Chancellor* stated that there was not the least doubt that the question was proper.

The question was proposed to the witness.

They were arm in arm.

Have you seen that more than once? Yes, many times.

Did you ever see them together in the kitchen at the Villa d'Este? I have.

What did they do when they were together in the kitchen? Sometimes they came there, ordered something to be prepared, a napkin was spread, and something was laid to eat.

Were they alone at that time, or was any other person with them? Sometimes they were alone; sometimes there was with them the dame d'honneur.

Was that the countess Oldi? No Oldi, but the sister of Pergami.

When they were in the kitchen eating, in what way did they eat? She cut some pieces, stuck a fork into it, and ate herself, and then took another piece, and said, "Here it is, you eat also."

Did you ever see the princess and Pergami on the lake together? I have.

Was any person with them, or were they by themselves? Sometimes they were alone; for he rowed, and she was with him in a small canoe.

Do you recollect a person of the name of Mahomet? I do.

Do you know of any exhibitions made by Mahomet in the presence of the princess? I do.

What sort of dress had Mahomet on, was it European or Turkish? A Turkish dress.

Describe what Mahomet did in the presence of the princess? He did so [making a dancing motion,] saying "Dema" "Dema."

Did he do any thing with his trowsers in the course of those gesticulations? He made a kind of roll to represent something, I do not know how to call it decently.

Did you observe the princess on that occasion? She was looking, and laughed.

What did he do with this roll when he had made it? He took it in his hand and made gesticulations; I cannot say what he meant to represent.

What do you mean by "non posso dire?" I cannot say what he had in his head to represent by that, what he meant to represent.

Did that take place before the princess more than once? Once I have seen it in the kitchen, another time he was in the court and she was at a window.

Were you with the princess at Turin? I was.

Were you at an inn there? We were.

Do you recollect the princess going to court any day? I do.

Do you recollect whether on that morning you were in Pergami's bed-room? I do.

At what time of the morning was it? About nine, or half-past nine.

Had the princess got up at that time? I do not know.

For what purpose did you go into Pergami's bed room? I went to carry a ruff to the dame d'honneur, to put round her neck, and a pair of gloves.

Did the door of the chamber of the dame d'honneur open into that of Pergami? We entered into the room of Pergami, and then on the right there was the door of the room of the dame d'honneur.

Did you observe the state of Pergami's bed, whether it appeared to have been slept in or not? At the moment I was coming out from the room of the dame d'honneur, I saw Pergami coming out from the room of the princess, open the curtains of his bed, I saw that it was made, and he scolded me.

Was Pergami dressed when he came out of the princess's room, or half dressed: what clothes had he on? No, he had a morning gown of silk striped, he had his drawers, his stockings, and slippers.

Do you recollect, when you were at Barona, any balls being given by the princess? I do.

What description of persons were at those balls? People from the neighbourhood, no gentlemen, people of the low and middle rank.

Cross-examined by Mr. *Brougham*.

When did you come to this country? When they brought me here.

When did they bring you here? About nine or ten days ago.

Where were you before that? I was with my master.

Who was he? The marquis Incisa.

Where did he live? In Piedmont.

How long had you been with him? I am still with him; I have been with him nearly three years.

When were you examined first, in this business? About two or three and twenty months ago.

At Milan? Yes, at Milan.

Who examined you there? An advocate called Vimercati.

Who was by, besides Vimercati? There were three or four gentlemen writing there.

Have you ever seen them since? I have seen one.

When? Before I came here.

Did you go to Vimercati at Milan, or did any body take you there? They sent for me, saying that they wanted to speak to me, and I went.

Was it at that time that you agreed to come over here? Yes.

Have you ever seen them since? No, because I went into Piedmont: but I have been twice at the advocate Vimercati's; the first time, as I have said, there were three, and Vimercati four; and the second time there was only the advocate Vimercati, and the gentleman whom I knew.

What is the name of this gentleman whom you knew? Colonel Brown.

Was it colonel Brown that sent for you from Piedmont? Yes.

How do you know colonel Brown? Because I saw him at the advocate Vimercati's, and the servant of colonel Brown lives near me.

Do you mean near you at Milan or at Piedmont? At Milan, next door at Milan.

What wages had you with the marquis Incisa? One livre of Milan per day; eating, drinking, every thing comfortable, and plenty of perquisites, which are a good many, and indeed there are many perquisites.

Interpreter.—He says in this country they say, give me something to drink, in Italy it is something of the same species; he says he has a good many.

What wages had you with the princess? Every three months I got ten napoleons, that is to say, ten twenty francs.

Had you your keep there? Yes.

And every thing comfortable? Nothing else but eating and drinking, all the rest I was to supply myself.

Does the marquis give you clothes? Not through obligation or agreement, but as presents.

There were no presents in the princess's household, were there? I never received any presents except when we returned from the voyage; for instance, I received a present when he was made a baron, he gave me two dollars.

Were not you cook with the princess? Yes.

Had you no perquisites as cook, did you make nothing of being cook there besides your wages, no perquisites? The profits I left to the other people who worked with me, for their pay was small.

Did the baron Pergami pay you? Yes.

Did not the baron overlook the accounts of the house? Yes.

Was not he very exact? I do not know that, the accounts were so many.

On board the ship, was it your business to be on the deck or below cooking? On deck on the foremast.

Do you mean that the kitchen was upon the deck? Yes.

Where did the princess's maids sleep on board the ship? I do not know that.

Where did Mr. Hieronimus sleep? That I know, because sometimes I went into his cabin to have a glass, his room was in a corner.

Where did Mr. Hownam sleep? I know he was in one of the cabins; there were so many cabins, right and left, I do not know precisely which, but I know he was in one of them.

Where did captain Flynn sleep? I saw them go into their rooms, one on one side and one on the other, but I do not know precisely the rooms, I was always on deck.

What have you had for coming here? Nothing at all but the trouble.

Do you expect nothing? I hope to go soon home to find my master.

Is nobody to give you your livre a day during the time you are absent from your master? There is my daughter, I do not know whether he pays her still, I have received no letters, and I do not know whether she still receives money.

Examined by the *Lords.*

Earl of *Liverpool.*—When you said in a former answer Pergami's bed appeared to be made, did you mean that it appeared as if it had not been slept in? I did.

Marquis of *Lansdown.*—Do you remember to have seen Mahomet perform the same motions which you have stated that you have seen him perform twice in the presence of her royal highness, before other members of the family when her royal highness was not present? Yes; he played the same tricks before us many times.

Duke of *Hamilton.*—How did you know it to be the princess's room out of which you saw Pergami come? Because when I was ordered to carry the breakfast, I went with the people to carry it, and I saw her royal highness come out from the same room all combed and dressed.

About what time of the day was that? Not entirely dressed for going out, she was combed, but she had her usual dress.

Earl of *Lauderdale.*—When Pergami came out of the princess's room and scolded you, can you state what Pergami said? "You scoundrel, what are you doing here? Who has opened the door?" I said I had found it open, and he said, "Go away."

Lord *Falmouth.*—You have stated that Pergami looked over your accounts; had you ever any quarrel about those accounts with Pergami?—Yes, I have had some disputes.

Was that just before you left her royal highness's service, or at what time was that? I had had some disputes before and also after with his brother.

When you left her royal highness's service, did she give you a good character? No, because I did not ask for it.

Did you leave her service of your own accord, or were you discharged? There was some quarrel up and down, and they told me you may go, and I went.

Earl *Grosvenor.*—At what time in the morning were the beds usually made for the family at Turin? I did not go to make the beds.

Do you know at what time they were made? I cannot say, for there was a servant who made the beds: it was only through accident that I entered his room.

Was it your duty to take the breakfast up? There were the waiters of the inn.

Was Mahomet in any particular employment in the service of her royal highness? Mahomet had the care of the horses, for there was another who did nothing.

Was Mahomet employed in the stables? One in the stable, and the other like a servant.

Earl of *Darlington.*—Do you recollect the king or queen coming to her royal highness the princess to the inn at Turin? I do.

Did her royal highness go out airing with the king or queen? She did.

Do you remember whether Pergami attended the princess at that time, when she went out with the king or queen? Yes, he followed; but the king had the arm of the princess.

Did Pergami go in the same carriage, or in what carriage did he go? This I cannot say; I cannot remember; I know that he went into a carriage, for there were three carriages; but I cannot tell in which carriage.

Do you recollect at what hour the princess went to court? When she went airing it was about eleven in the morning, when she went to dinner it was about one in the afternoon.

Earl *Grey.*—Were you in the service of general Pino when Theodore Majoochi left it? No.

Earl of *Morton.*—Is it usual in Italy to make up the bed in a different form for the day and for the night? There may be a manner, but I know in my house the bed is made in the morning; but I never made a bed.

Lord *Auckland.*—You have stated that you knew the princess's bed-chamber from having seen her royal highness leave it dressed, and with her hair dressed; does that remark apply to the morning that her royal highness went to court, or to any other day? On that same day she went to court.

At what hour did you see her? About half past nine or ten.

The following question was proposed by their lordships at the request of Mr. Brougham:

Were not you once, while in the princess's service, confined to your room in consequence of a hurt received in a scuffle? Yes.

Do you recollect her royal highness coming to your room, to see whether you were well treated, and to ask after you? I do; she and the baron.

Lord *Ellenborough.*—At what hour did her royal highness come to see you when you were confined, in consequence of that hurt? The hour I do not know, I know she came to me, and I was half asleep, and Pergami told me, "Mind, it is the princess who has come to see you."

Did her royal highness come more than once to see you? Once.

Earl of *Belmore.*—Was it by night or by day that the princess came into your chamber? By day.

Were you in bed at the time the princess came to see you? I was.

Earl of *Carnarvon.*—Did the princess come into your room alone, or was Pergami with her when she came? They came together.

The witness was directed to withdraw.

Then *Samuel George Pechell*, esq. post-captain in the royal navy, was called in; and having been sworn, was examined as follows, by Mr. Attorney General.

I believe you are a post captain in his majesty's navy? I am.

In the month of March 1815, did you command his majesty's frigate the Clorinde? I did.

Were you in that month at Civita Vecchia? I was.

Did you, at Civita Vecchia, receive her royal highness the princess of Wales on board the Clorinde? I did.

Do you recollect by whom she was accompanied? By Lady Charlotte Lindsay, the hon. Mr. North, Dr. Holland, Madame Falconet, her two daughters, and various servants.

Amongst these servants, do you remember a person of the name of Pergami? I do.

In what capacity did Pergami act, on board the Clorinde? As a menial servant.

Were you in the habit of dining with her royal highness during the time she was on board the Clorinde? I was; her royal highness was entertained at my table.

Did Pergami wait at table? He did.

Did he wait at dinner as the other servants, as a menial servant? He did.

Where did you convey her royal highness at that time? To Genoa.

In the course of your voyage to Genoa, did you touch at Leghorn? We did.

Did any of her royal highness's suite quit

the ship at Leghorn? Lady Charlotte Lindsay and Mr. North quitted her at Leghorn.

Was there a boy of the name of Austin on board? Yes, there was.

You say you conveyed her royal highness to Genoa, did her royal highness quit the ship at Genoa? Yes, she did.

With her suite? With her suite.

Do you remember how long she was on board your ship at that time? Seven or eight days.

In the course of the autumn of that year were you again at Genoa? I was.

Do you remember the month? In August 1815.

Did her royal highness in that month embark at Genoa on board the Leviathan? No, not till November.

Were you at Genoa when her royal highness embarked on board the Leviathan? I was.

Had you seen her royal highness in the interval between March and November? I had, in the month of March; but not from the time of her departure from Genoa.

Did you happen to see her at the time she came to Genoa to embark on board the Leviathan? I did.

Did you see her royal highness come to the shore in her carriage? Yes, I did.

Who accompanied her in the carriage when she came to embark on board the Leviathan? I remember the countess Oldi and Pergami being in the carriage, with an infant, but I am not certain of any other person.

Did you go in the Clorinde from Genoa to Sicily? I did.

Had you directions to go to Sicily for the purpose of receiving her royal highness at Sicily? I had.

About what time did you arrive in Sicily? May I refer to a paper of dates.

Mr. *Brougham.*—Is it in your own handwriting? It is; it is from the log of the ship.

The witness referred to his memorandum, and said,

On the 7th of December.

Mr. Attorney General.—Did you in Sicily receive her royal highness on board your ship? At Messina.

Previously to your receiving her royal highness on board your ship the second time, did any communication take place between yourself and her royal highness? Yes.

What was the nature of those communications? I received a letter from a Mr. Hownam; the communication made to me was, that her royal highness intended to embark from Genoa in the Clorinde.

That was before you had left Genoa? Yes.

Did any communication take place between you and her royal highness, before she embarked on board your ship? There did.

State the nature of those communications? On the morning after my arrival at Messina, captain Briggs informed me, that her royal highness had expressed uneasiness at the prospect of keeping her own table on board the Clorinde, I therefore desired captain Briggs to go to her royal highness in my name, and to say, that I was ready to do every thing in my power to make her royal highness comfortable while on board the Clorinde, provided her royal highness would be pleased to make a sacrifice which my duty as an officer compelled me to exact, by not insisting on the admission to my table of a person of the name of Pergami, who, although he was now admitted to her royal highness's society, when she last embarked on board the Clorinde, was in the capacity of a menial servant. I saw captain Briggs on the afternoon of the same day, when he told me he had had the conference with her royal highness which I had desired; and that, from the tenor of his conversation with her, he believed there would be no difficulty in my request being acceded to; but that her royal highness required a day to consider the subject. The Leviathan sailed the following day; and on the morning after that, I waited on her royal highness, to know her determination; her royal highness declined seeing me herself, but desired Mr. Hownam, one of her suite, to inform me that my request would not be acceded to, and that she should accordingly provide for her own table.

How soon after that did her royal highness embark on board the Clorinde at Messina? Her royal highness embarked on board the Clorinde on the 6th of January following.

How long was that after this communication? About a month.

Who accompanied her royal highness this second time when she came on board the Clorinde? The countess Oldi, Pergami, master Austin, and a count, whose name I understood to be Schiavini, and various servants.

Was there a little child with her? And a little child, which I understood to be Pergami's.

Where did her royal highness dine during the time she was on board your ship? In her own cabin.

Do you know who dined with her? I do not.

She did not dine then at your table, during the time she was on board the Clorinde? She did not.

How long was she on board the Clorinde? three or four days.

Examined by the *Lords.*

Earl of *Oxford.*—It appears that you refused to allow the princess to sit at your table, then, because she refused not to admit Pergami; supposing a lad who waited at my table or any other person's table, should have the good fortune to be made a midshipman in his majesty's service, and afterwards become of rank, either as a lieutenant, or a captain, would you afterwards refuse to sit down with that person?

The question being objected to, the same was waived.

Thomas Briggs, esq. post-captain in the royal navy, was called in, and having been sworn, was examined as follows by Mr. Attorney General.

You are a captain in his majesty's navy? I am.

Did you in the year 1815 command a ship of war of his majesty called the Leviathan? I did.

Were you at Genoa in the course of that Year? I was.

In what part of it? In November 1815.

Was your ship ordered to Genoa for the purpose of receiving on board her royal highness and her suite, and to convey her to Sicily? She was.

Did her royal highness and her suite embark on board of the Leviathan at Genoa? She did.

Can you state by whom she was accompanied when she came to embark? By her suite.

Do you remember of whom that suite consisted? I do.

Be good enough to mention them? Her royal highness, Pergami, Mr. Hownam, I think count Schiavini, and two or three other foreigners — Montechelli I remember the name of, but I do not remember the names of the servants that accompanied the suite.

Was there Madame Oldi? There was Madame Oldi, and there were two servant maids.

Do you remember her royal highness coming down to embark? I do.

Do you remember who came with her in the carriage? The countess Oldi, Pergami, a small child, and I think there was another person, but I am not quite confident; I remember these three perfectly.

Did her royal highness dine at your table? Always, while she was on board.

Did Pergami dine with her? Always.

What disposition had you made of the cabins for the accommodation of her royal highness previous to her royal highness embarking on board your ship? I had made such arrangement as I thought would accommodate her royal highness and the whole of her suite.

With respect to the apartments which you had appropriated for her royal highness and her suite to sleep in, where did you assign a cabin for her royal highness? The after apartments of the Leviathan were divided into two cabins, which I intended for her royal highness; the one as the sleeping room, and the other as a sort of drawing-room; before that, there were two other small cabins in a line, which I intended for her royal highness's suite, the countess of Oldi, and the two maids before her; and I meant to put the men any where, some below in the wardroom, and some in my cabin, as was most convenient, reserving one part of my cabin for myself; that was the disposition of the apartments I made then.

Was that disposition altered by her royal highness? It was.

Look at that plan? [A plan was shown to the witness.]

Mr. Denman stated that he should have objected to that with another witness, but did not object in the present instance but rather wished it should be done.

Mr. Attorney General withdrew the plan.

Mr. Attorney General.—You say that you appointed a cabin for Madame Oldi and the female servants; was that immediately adjoining the cabin intended for her royal highness? It was.

You say, that disposition was altered by her royal highness; in what manner was it altered? The cabin I had intended for the countess of Oldi was altered; an alteration took place in the doors; and Pergami was put into that cabin.

What alteration took place in the doors? The two small cabins which were to have contained the countess Oldi and the servant maids had a communication within each other, and when her royal highness came on board, she said that she desired Pergami's cabin should be changed—that he should be placed where the countess of Oldi was, and she put into another apartment, one of her own, which I had intended for her; there was only a communication between those cabins from the inside, that is to say, that to go into the countess of Oldi's cabin, you must have gone through the cabin where the maids were; when this change took place, the door was filled in between those two cabins, and brought inside, and opened close by that cabin which her royal highness occupied.

So that after that alteration the door into the room appropriated to Pergami was near the door of the room of her royal highness? It was.

You have stated that Pergami dined at the table with her royal highness; have you ever observed her royal highness walking with Pergami? I have seen her royal highness walk with Pergami.

In what way? Arm in arm; but I think it was at Palermo; and I think I recollect to have seen it at Messina; it would not have been considered by me at all uncommon; I have occasionally seen it, I may say three or four times in the course of the time she was with me; she walked with him occasionally when she went out; and at Palermo and Messina I remember having seen her walking with him arm in arm.

Do you remember, in consequence of a request of captain Pechell, waiting upon her royal highness with any message from captain Pechell to her at Messina? I do.

State what passed between her royal high-

ness and you upon that occasion? When I quitted Messina, it was very much the wish of captain Pechell, that I should speak to her royal highness about embarking on board the Clorinde; he told me that Pergami having been in the situation of a servant on board his ship, he could not possibly think of sitting down with him at table; and he said, "it would be very pleasant to me, if you would be so kind as to mention this to her royal highness before you go away, because I am left in a very uncomfortable way here by you;" upon which I asked her royal highness's permission to speak to her upon that subject, which she granted, and I made known captain Pechell's objection to sit down to table with Pergami, upon which her royal highness said she did not care, that she had thought as I had sat down at table with him, captain Pechell might do the same, but she did not care it was only to prevent the captain's keeping two tables that she had Pergami with her; upon which I said, if your royal highness has no objection to Pergami dining from the table, captain Pechell will be very happy to see you; and to keep the table as I have done.

You say, that her royal highness stated that you had dined at table with Pergami; did you make any observation upon that to her royal highness? I made this observation, that Pergami had never been a servant in my ship; that if he had, it would have been impossible for me to have admitted him to the table.

Did you communicate what had passed between yourself and her royal highness to captain Pechell? I did.

Then you left Messina? I left Messina on the 11th of December, three or four days after I had anchored there.

Cross-examined by Mr. *Denman*.

In the course of the conversations you had both with captain Pechell and her royal highness, did you not perceive there had been some little dispute between them, as to the former voyage? I had seen captain Pechell before I had waited on her royal highness: he came to me as the senior officer, to report himself, and he then told me the line of conduct he meant to adopt with regard to her royal highness.

Did you not discover, from the conversation of both, that there had been some difference about the stowing of her royal highness's luggage, or something of that kind? On her royal highness's part I did: she repeatedly complained of captain Pechell not having accommodated her so well as I had done.

Did it fall to your knowledge to know where the countess of Oldi slept on board the Leviathan? It did.

It was in a room adjoining to that of her royal highness, was not it? It was.

And there was a door opening immediately from the one into the other? There was.

Countess Oldi's room and the princess's divided that part of the ship between them? Precisely so.

And both opened into the dining-room? They both opened into the dining-room.

Each directly by several doors? Each directly by two doors.

Was not the cabin you had provided for the maids occupied by them? It was.

And that also opened into the dining-room? And that also opened into the dining-room; all the cabins opened into the dining-room.

Re-examined by *Mr. Attorney General*.

The Clorinde was a frigate, and the Leviathan was a ship of the line? Yes; one a-line-of-battle ship and the other a frigate.

So that there was more accommodation on board of the Leviathan than could be given on board the Clorinde? Certainly.

Examined by the *Lords*.

Lord *Ellenborough*.—Was the sleeping place you reserved for yourself in the dining-room closed, or had it merely your cot? It was closed at night and opened in the day.

When you were in your cabin at night, could any person have passed from Pergami's room to that of the princess without being seen by you? I should certainly say it was possible, but I do not think very probable, that any communication could have happened; they would have run a great risk of my hearing something of it, but I might have been asleep; I should say, I do not think it likely; it frequently happened I was on deck half the night, or so; I was subject to all calls; I was very constantly out on deck at night.

Lord *Hood*.—Did you observe any improper conduct take place on board your ship between Pergami and the princess of Wales? No.

Had you any reason to suspect, that there was any improper conduct between her royal highness the princess of Wales and Pergami? I saw no improper conduct.

Earl *Grey*.—Did you not frequently receive, during the night, reports from officers who were on duty in the ship? I did.

They had therefore constant access to your apartments during the night for that purpose? The officer of the watch had constant access to my cabin, whenever any thing occurred that he wished to inform me.

And you were liable to be called up at any moment on any emergency that might occur? I was.

Earl of *Rosebery*.—After the change of rooms you have spoken of, in going to that occupied by Pergami, was it absolutely necessary to pass through one of her royal highness's apartments? No.

When you were called up at night, must you necessarily pass through the dining-room? No, my cabin was in the dining-room, and the door opened within the screen, so that I could have gone out on deck without pass-

ing through the dining-room, but I must have gone just into the angle of it; I had not occasion to pass immediately through it, because the door was close to my cot.

Then you did not pass through the dining-room, but only by an angle? I crossed an angle of the room.

How long was her royal highness on board the Leviathan? She embarked the 14th of November, and remained till the 4th of De ember.

Lord *Duncan.*—Were not those officers who came to you at night for orders, obliged to pass through the dining-room before they could get to your cabin? They must come into the dining-room, but not pass through it, because the moment they were over the threshold of the door, they were in my cabin.

Marquis of *Buckingham.*—Did the screen which constituted your sleeping place include the door at which the sentry is placed? It included the door in part, but not altogether.

Therefore an officer coming through the door at which the sentry is placed into your sleeping place, need not go into the dining-room, but going through that door he would find himself at the door of your room? He must go into the dining-room; mine is a loose screen, he would put the screen on one side, and come to my cot.

What kind of partition was there between the dining-room and the small cabin occupied by Pergami and the maids? It was a pannelling, double thick canvas with pannels.

Lord *Colville.*—Was the door a regular door on hinges? Yes.

The door which was next to the princess's sleeping apartment? Yes, a regular door with lock complete.

What was the nature of the partition which divided her royal highness's apartment from the dining-room? A regular wooden bulk-head.

With a door on hinges? Yes.

The partition that divided your sleeping apartment from the dining-room, you are understood to have said was a loose screen; was that so? It was.

Of canvas or baize? Baize, rolled up in the day-time; when my cot was taken down after I had dressed.

And the officer of the watch, or any person wanting access to you in the night, on entering the outer cabin, must necessarily have seen if any of the doors opening into the dining-room were open or shut? Oh yes, no doubt, if it had been light enough.

Did you always keep a light burning in the dining-room by night? No.

Did you within your own screen? No, never.

Was there any light in the after-cabin? The light was always with the sentinel on the outside.

Earl of *Liverpool.*—Was there a light generally allowed to be burnt in the after-cabin? No, not unless they chose to have a light; if her royal highness, or the countess Oldi, had chosen to have a light; and perhaps they may have had one, but I do not remember to have seen one, when I have occasionally seen the doors open.

Lord *Colville.*—Did any person sleep in the dining-room during the time her royal highness was on board the Leviathan? Yes.

Who was that person? I think Mr. William Austin was one, he was quite a youth; then I think there was another person, I am not quite sure whether signor Schiavini did not; I think there were one or two cots; I know Mr. Hownam slept below, I am not quite sure whether Montichelli did not hang up a cot there, there were one or two cots hung up, and I cannot at this distance of time recollect exactly who were the persons who occupied them.

Were there any screens round those cots that were hung in the dining-room? There was one screen on the outside, and the panneling of the cabin, made the other side screen, they were hung near that side of the cabin, and there was a screen on the outside of the cots.

Supposing her royal highness to have wished for the assistance of any of her female attendants, had she any means of communicating with them, by a bell or otherwise? Yes.

State those means? By ringing a bell out of her apartment.

Did that bell lead into their apartment? No but close by the end of it, so that it could have been heard, and the sentry, if the bell had been rung, would have come in to know what was wanted, and to receive her commands.

Were there two doors, or only one, which opened immediately from the dining-room upon the quarter-deck? There were two doors that opened on to the quarter-deck.

Were they both used occasionally by the officer of the watch at night? No.

Which door did he generally use when he wished to communicate with you? The left door, what we call the larboard door; every one came in at the larboard door.

That was the side on which you slept? It was.

And the door on the starboard side was always kept shut at night? Yes, it could be opened, but it was kept shut and bolted; it was opened for air during the day in the hot weather.

If it happened to be the weather side, would the officer of the watch have entered on the starboard side? No, never; he always came the larboard, and every one else.

Earl of *Lauderdale.*—What answer did her majesty give you when you stated the message with which captain Pechell charged you? What I have before mentioned; after making the remark about his being so good

company for him as he was for me, she said, "Well I do not care, it is only to prevent the trouble of your keeping two tables that he dines with me at all; I do not care then." I remarked, that if she would dispense with his dining at table every thing would be right, and that captain Pechell had desired me to say he should be most happy to receive her royal highness, and to keep her a table as he had done before; and I left her rather under an impression that he would not have been at table when he went on board the Clorinde, because I remarked it was so very easy for him to have his dinner sent him in a smaller cabin; and I was under that impression that he would not have dined at the table when they embarked.

When her royal highness complained of captain Pechell relative to the mode in which her baggage was stowed, was that complaint made previous to or after you had communicated captain Pechell's message? I never heard a complaint made about captain Pechell at all, except in conversation with her royal highness; she did not appear pleased with the ship; there were no complaints during the time he was under my orders; but this was conversation before captain Pechell came, that she had complained of former treatment in the Clorinde.

When the alteration that you refer to took place in the cabins, was that by desire of her royal highness or of any other persons? It was by command of her royal highness the princess to me.

The following question was put by their lordships at the request of Mr. Denman.

Had you not received a complaint from captain Pechell upon the subject of the inconvenience which he thought he sustained from the manner in which her royal highness's baggage was stowed upon the former voyage? I had heard captain Pechell say that the ship was a good deal lumbered from the vast quantity of baggage that came on board of her royal highness and her suite; but it was merely in the nature of a remark, it was not in the nature of a complaint to me as his superior officer.

Was any remark made by captain Pechell as to the expence of the table he was obliged to keep?

The Attorney-General objected to this question.

Mr. *Denman* was heard in support of the question, and submitted, that it might be material to show that there was a subject of disagreement between her royal highness and captain Pechell, which might be a motive for her conduct.

The counsel were informed that many parts of the evidence captain Pechell gave, should strictly have been first given by captain Briggs; that if it could be shown by captain Pechell or captain Briggs, that some particular reason led to her royal highness's going on board under the circumstances under which she did go on board, that would be a very proper subject of examination.

Mr. *Denman* having had an opportunity of conferring with his learned colleagues, declined giving their lordships further trouble upon this point.

The witness was directed to withdraw.

Then *Pietro Cuchi* was called in, and having been sworn, was examined as follows by the Solicitor General, through the interpretation of the marchese di Spineto.

Do you reside at Trieste? Yes.

Do you now keep an inn there? I am the agent at the great inn at Trieste.

Earl of *Liverpool*.—What do you mean by agent? I am acting instead of the owner.

Mr. Solicitor General.—Do you know an inn at Trieste called the Black Eagle? I do.

Who keeps that inn? He is called Vincenzo Bartoletti.

What is the name of the inn of which you are the agent or superintendant? L'Abergo Grande; the great inn of the town.

Do you remember the princess of Wales coming to that inn? I remember it well.

In what kind of carriage did she come? A small open carriage with two post horses.

Who came with her in that carriage? Mr. Pergami was with her, without any other servant, or without any servant at all.

Can you tell about how long it is since that affair happened? I do not remember; about four years ago, I think more than four years.

How long did her royal highness remain at Trieste at that inn? Six days.

Do you know in what apartment her royal highness slept? I do well.

Do you know also the apartment which was allotted to Pergami? I remember it well.

After her royal highness and Pergami had come in the carriage, in the manner you have described, did the suite come in afterwards in other carriages? They arrived in about an hour after the arrival of her royal highness.

Into what apartment did the bed-room of her royal highness and the bed-room allotted to Pergami open?

Mr. Williams objected to the question.

Into what place did the bed-room of her royal highness open? The door was facing the room of the dame d'honneur, No. 2.

When you say it was facing the room of the lady of honour, what was there between them? The dining-room.

Did the door of the bed-room occupied by her royal highness open into that dining-room? Yes.

Did the door of the bed-room allotted to Pergami open into that dining-room? The room where Pergami slept opened into that of the dame d'honneur, who was his sister, and came into the dining-room.

Besides the door of the bed-room of her royal highness, and the door of the bed-room of the countess of Oldi, were there any other doors that opened into that dining-room? The door of No. 4, to go out by.

Was that the only other door that led into that dining-room? There were no other doors to that room.

Can you state whether that door was fastened at night? It was fastened.

Was it fastened from the inside or the out? I do not know: I do not know whether it was shut from the inside or from the outside: I do not know whether they closed the door themselves, or whether any of the servants closed it.

Was it always closed at night during the six days that her royal highness was there? Always shut up at night, at the time they went to sleep.

What beds were there in the bed-room occupied by her royal highness—how many? There were two beds near one another.

What bed or beds were there in the room that was appropriated to Pergami? One single bed.

Did you at any time in the morning, during the period that her royal highness was at Trieste, see Pergami come out of any room into the dining-room? I have seen him come out of the room of the princess.

About what hour in the morning? About eight, or half past eight.

How many times did you see that during the six days that the princess was at Trieste? Three or four times.

Describe the manner in which Pergami was dressed at the time when you saw him so coming out of the room of her royal highness? He had a surtout made according to the Polish fashion, which had some gold lace behind, that reached from the waist down.

Besides that robe what had he on? He had drawers.

Had he any stockings? Sometimes stockings, and sometimes pantaloons which are stockings and pantaloons together; but this I cannot precisely say, for I was looking out from the key-hole of my room.

What had he on his feet? It appeared as if he had some strings, as if to fasten the drawers.

At the time when you saw this, was the door of the dining-room opened? It was still closed.

What led you to look through the key-hole in the manner you have described?

Mr. Williams objected to the question.

Mr. Solicitor General.—Where did you yourself remain in the morning, before you went into the dining-room? In my own room, which was at the end of the dining-room.

What was the situation of your room? My room was between the corridor and the dining-room, having a door that led into the dining-room; from the key-hole of this door I looked into the dining-room.

What were you doing at that door at that time? I was with my breakfast service, to give it in when it was asked for.

Did you go into the room at the time? When they asked for breakfast, I entered the room.

Did you remain there with the breakfast service, or did you go back? I remained with the breakfast service in my room.

Were you afterwards suffered to go with your service into the dining-room? At the first, to carry away those things that were there, sweep the dining-room, and then take in the breakfast service.

Did you go in before you were called for that purpose? Never.

During the time that the princess was there, did you ever see her walking with Pergami? All day, every day; they were always together.

How did they walk together, in what way? Speaking together; sometimes in the hall, sometimes in the dining-room, sometimes in the room of the dame d'honneur.

Did they walk together separately, or in what other manner? Sometimes alone, and sometimes one spoke on one side and the other one spoke on the other side to those of the suite.

When they were walking together, in what manner did they walk together; did they touch each other, or were they separate from each other? They did not touch each other, as far as I have seen, but they were arm in arm.

Did you ever see the princess while she was at Trieste walking arm in arm with any other person? The count Cotta, the vice governor, came to take her to the theatre, and she gave the right hand to count Cotta and the left to Pergami.

Did you make any observation on the beds in the bed-room of the princess, whether they had both been slept in, or only one? They were both tumbled.

Did you make any observation upon the bed in the bed-room which had been assigned to Pergami? Yes I did.

Did that bed appear to have been slept in? Never.

After Pergami went away, did you make any observations upon the sheets of the bed in the bed-room assigned to Pergami? The sheets had been put on the bed clean, and they were taken away clean.

How many chamber pots were there in the bed-room of the princess? Two.

Did you observe whether or not they had been both made use of? I say yes.

Was either of the two empty? There was a good deal in each; they were not empty.

In the bed-room of the princess was there more than one basin for washing? There were two wash-hand basins.

Did they appear to be both of them used, or only one? I do not remember that; there are many travellers who wish to have two basins, and yet they are alone.

Were you present when her royal highness went away? I was.

How did she go away? In the same way as she arrived.

Did Pergami go away with her? They set out together without servants, in the same open carriage.

Cross-examined by Mr. *Williams.*

How soon after did the suite go? A quarter of an hour, not quite so much, almost immediately.

Have you any doubt about her royal highness having remained as much as five or six days? Six days.

Are you quite sure of that? No more.

Are you sure she remained so many as six days? Yes.

Do you remember the day of the week? No.

Can you remember the day she went? I do not; if somebody had told me something, I might have ascertained the point; but as they have told me nothing, I do not remember.

As this is some time ago, probably your memory is not very full and fresh upon the subject.

The Solicitor-general objected to this, as not being in the form of a question.

Had your room of which you have spoken, a door into the dining-room? A secret door that could not be known to be a door.

A secret door that could not be known to be a door, by any body that was in the dining-room; is that so? Yes.

Was that part which formed the door covered with tapestry, or was it part of the wood like the rest of the room? It had painted canvas.

Which covered the whole of it, so that a person could not tell that it was a door at all? No.

Was it then quite impossible for a person in the dining-room to discover by any symptom that there was a door? It was impossible except one of the family, one who belonged to the house.

Was not the reason of its being impossible, because the door was entirely covered with canvas? Yes.

You are understood to say that the reason why no stranger to the room could find out that there was a door there, is, that it was wholly covered with canvass? Yes, entirely covered.

Are you still agent, or by whatever name you go, of the Grand Hotel at Trieste? I am after taking the inn which is called the Black Eagle; but if I do not gain the law suit, I shall continue to be in the Grand hotel.

You are not asked what you are after, but are you or not at prerent still agent to the Grand Hotel? I am not sure, because the inn is exposed to an auction every nine years; the lease has expired, and I do not know whether my principal will buy the lease or not, because it belongs to the town.

As agent of the Grand Hotel, was not it your business chiefly to attend upon the guests? I have waited upon them, I am always the first to wait upon them.

Was not your chief business to attend as a waiter upon the guests? Both.

Both what? As I am the oldest servant in the house, I know the rules of the house better than any other person in the family.

Have you any other waiters under you? Two more.

Were they men or women? One had the name of Giusto, and the other was called Bernardo Cesare.

You are understood to have said, that you had the superintendance or management of this inn, and yourself assisted as a waiter besides? All the affairs of the family, both those duties.

As it was a great hotel as you describe it were not there any females engaged as servants at the time the princess was there? There was one.

What was her name? She was called Maria Mora.

When you talk of the door being fastened every night, do not you speak of what was done by the other servants, or some of them? No, the waiter did not do that.

What do you mean, when you say that No. 4, was fastened; was it done by the servants, or by yourself? It was shut by themselves; I do not know whether it was from the suite of the princess, or from Pergami; this I do not know.

How long was it after the princess was there, that it happened that you were first examined upon the subject, or said any thing upon the subject? I think about three years before I was examined; it was past two years and a half or three years.

You are understood to have said, that a great number of guests are in the habit of continually coming to that inn? Yes.

It is the chief inn for travellers in that place, is it not? It is the best inn.

At the end of the two years and a half, or three years, who was it that first applied to you, to know what you had to say? Some one who came to dine at the inn, who asked me, "How did the princess conduct herself?" I answered, "I have no reason to complain, she has behaved well."

Were you at Milan? Yes, I have been.

More than once? If I must go to my country, I must go through Milan; I have been at Milan five or six times.

What countryman are you? I am of near Asti, in Piedmont.

Have you been at Milan, in order to give any account of what you are supposed to know upon these subjects? Yes, about eighteen months ago.

Who examined you there? Colonel Brown was there.

What lawyer assisted him? A lawyer who is here, I do not remember his name.

Would you know it, if you were assisted with it? I know that at Milan, and the lawyer here I know also.

Was it Mr. Powell? Yes.

Was counsellor Cook there? I do not know how he is called, there was one who appeared to me to be a Milanese.

Was that Vimercati? I do not know.

However, you were at that time regularly examined, were you? Yes.

Was your examination taken down in writing? I believe so.

And you gave a full account there, did you, of the rooms, and all you have told to-day? What I can say before God I have said here, and I said it at Milan.

Have you been examined since you came to this country by the same English gentleman that examined you at Milan? No.

Have you been examined at all by any body since you came? I was examined before the presence of the present interpreter, and of the advocate whom we have mentioned.

Where are you speaking of; what do you mean by the present interpreter? I have been examined upon the same business.

By whom? By the same advocate or lawyer, in the presence of you [meaning myself the Interpreter] and two other gentlemen.

When was that? I think on the second or third day after my arrival.

How long have you been here? I do not know; but I think it is about a fortnight that I have been here.

Whom did you come with? Signor Capper brought me here.

Did you come with Mr. Capper alone, or any others in company with you? I went as far as Boulogne with a certain Andreazzi, who has been three times at the inn where I was, to take me.

Who is Andreazzi? Andreazzi is a person sent by colonel Brown from Milan.

To accompany you on your journey? Yes.

You have received no money? Yes; I did not wish to have any, but he has given me some.

You did not wish for any money? I did not; he told me, take this, and gave me eight golden napoleons and eleven francs.

You are understood to have said that you did not wish for any money? I did not wish for any money.

True it is that you were examined at Milan, and your examination was reduced into writing, and you have been examined again here? Yes.

That is a mistake on the part of the Solicitor General, as I understand that the room of Pergami did not enter into the dining room?

The *Solicitor General* objected to the form of the question.

The counsel were informed, that the question was objectionable in its form.

Mr. *Williams*.—Then it is not true that the door opened into the dining-room?

The *Solicitor General* objected to this, as an inference from the evidence, and not in its form a question.

The counsel were informed, that that which is put on an original examination in the form of a question was frequently allowed to be put in cross-examination, in the form of an assertion; that it was so put in the shape of assertion, if it was stated to the witness "you have said so and so," but the counsel must be careful to recite correctly the statement of the witness.

Mr. *Williams* stated, that he was desirous of showing that that statement of the witness to-day, as to the situation of the rooms, varied from the deposition he had formerly made; the form of the question put by the Solicitor General having assumed the position of the rooms to be different from that which the witness had stated.

The *Solicitor General* stated, in answer, that the form of the question put by him was occasioned by a mistake in his reading the paper before him.

Mr. *Williams*.—Then is it to be taken as a fact, that the door of Pergami did not open into the dining-room, but into the bed-room of his sister, the countess of Oldi? Yes.

State to their lordships the name of the party that came to your hotel before the princess of Wales? The order came from the vice-governor, count Cotta, to prepare the apartments, half an hour before.

Who were the persons composing the party which arrived at that inn last, before the princess of Wales? It is not possible for me to remember; one I do, a man of the name of Perrie, a manufacturer of watches at Neufchatel.

Who composed the party that came next after the princess of Wales left? It is impossible for me to remember; if I were at home, there is a book where the names of all the travellers were put down.

Do you recollect whether the princess of Wales was there during a Sunday? I do not remember.

Nor you do not remember the day she came, nor the day she went? I do not remember; from the book every thing may be known.

That book you have left behind? The book is at Trieste, where the names of all strangers are put down.

Can you remember that the princess went to the opera? Yes, she did go.

Was the princess ever at that inn of which you speak more than once to your knowledge? It was the first time she ever had been there.

Has she ever been there but that one time in her life? Once only.

Did you ever see her at Trieste but that once? Once only; she went to Gorrizzia, and afterwards an order came that she was coming no more.

Re-examined by *Mr. Solicitor General.*

You have mentioned there was a female servant in the house of the name of Maria Mora; where is she at present? She came to beg something to enable her to go to Jerusalem.

How long ago is that, to the best of your recollection? Last spring.

Have you ever seen her since? No.

You have mentioned a servant in the house of the name of Cesare? Yes, Bernardo Cesare.

Do you know where he now is? I do not know.

How long is it since you have seen him? It is about three years.

Look at this gentleman? That is the gentleman who has examined me. [The witness pointed out Mr. Maule, the solicitor to the Treasury.]

Where did he examine you? Here below in a room.

Did he take down in writing what you said? Yes; I do not remember, but I think so.

You have been asked what party it was that came to the house at Trieste, immediately before the party of her royal highness the princess; was there any other princess with any large suite that came there about that time? At that moment there was nobody.

You have said something about receiving eight napoleons and eleven francs, when was that?

Mr. *Williams* stated, that he had not asked any question as to the witness having received any money, and submitted that the fact being stated by the witness not in direct answer to the question, did not entitle the Solicitor General to re-examine upon it.

The counsel were informed, that the matter having come out in the cross-examination, the Solicitor General was entitled to re-examine upon it.

The question was proposed.

At Boulogne.

How long have you been absent altogether from Trieste? I cannot say, I do not know.

State as nearly as you can recollect? I have left Trieste since the 23th of June.

Do you lose any thing by not being at Trieste? I undergo much loss.

According to the best of your judgment, is that loss more or less than the eight napoleons and eleven francs you have mentioned? I derive more profit in my house.

Explain what you mean by a law suit?

Mr. *Williams* stated that he had abandoned all idea of his intending to refer to the present proceeding, and understood the witness to refer to proceedings in respect of the inn.

The Solicitor General waived the question.

You have said, that the door communicating from the place were you stood into the dining-room was entirely covered with canvas; explain, how it was that you saw into the dining-room? I looked in order to be exact in my service, in order to bring in the service when they called for me.

How could you see into the room if the door was entirely covered with canvas in the manner you have described? I could see, because there is a key-hole that looks into the dining-room.

Examined by the *Lords*.

Marquis of *Buckingham*.—Do you know whether during the princess's residence at the inn in question the countess Oldi's bed appeared to have been slept in every night? Nobody can sleep in there, because the bed was too small.

Do you know where the countess Oldi slept whilst the princess remained at the inn? She slept in No. 3.

Did the bed in No. 3. appear to have been slept in every night? The countess Oldi herself slept there; I know no more.

Do you know where the other female attendants slept during the princess's residence at the inn? As far as I recollect there was one woman who slept in No. 1. with children.

Did the bed in No. 1. appear to have been slept in every night? Yes, because there was a boy and a girl.

Was Pergami's bed the only bed which did not appear to have been slept in during the princess's residence at the inn? Never any one.

Do you mean that Pergami's bed was the only one which did not appear to have been slept in? The only one; because the sheets were taken away in the same state as they were put.

Was there any appearance in Pergami's room either from the pot de chambre, or other circumstance, of any person having slept in Pergami's room? I believe there was something; for it is possible that when he went to make his toilette he might have put something into the pot de chambre.

A Peer.—You have stated that there were two beds in the princess's room at Trieste, were there two beds in that room before the princess arrived? There were, but they were not so near one another as they were placed after the arrival of the princess.

Were you in the habit of looking through the key-hole when the apartments were occupied by other guests? In the same way.

Earl of *Liverpool*.—You have stated that the door was all covered with canvas, and yet you have stated that there was a key-hole, through which you could look; explain how that key-hole was placed, whether the canvas was cut as well as the door, so as to leave an opening for the key.

Mr. *Williams* submitted to their lordships, whether this question was in a correct form.

Earl of *Liverpool*.—You have said that the canvas covered the whole door, did the canvas

then cover the key-hole? Some little matter, as if a knife had been passed through it, a slit by a knife.

Was there a small hole in the canvas? Yes.

Could that have been seen easily from the dining-room? Yes, it could be seen very well.

Would it have appeared from the dining-room like a key-hole, or only a hole in the canvas? Smaller than the key-hole, about one-half, because it was not necessary to shut it from the dining-room, but it was shut from the inside of my room.

When you say it was not necessary to shut it from the dining-room, what do you mean by the word shut? Locked.

How long have you been a waiter at the grand hotel at Trieste? From the moment it was opened; it is nine years on the 24th of August.

[The witness produced a key.]



Interpreter.—He says that the key of this secret door was somewhat narrower than this.

Lord *Kingston.*—Was there any door under the canvas? Yes.

Was there any key-hole in the canvas? There was; it went through the canvas altogether, from one side to the other, but with difficulty; it might be discovered from the dining-room, a stranger could not know it.

Earl *Grey.*—In what manner was the painted canvas placed on the door, did it hang loose over the door or was it fixed to it? It was fixed with nails.

Was not there then a separation round the door of the canvas on the door from the canvas on the other part of the wall? There was.

Could not that separation be seen by persons in the dining room? It could not be known.

Marquis of *Lansdown.*—State whether you made use of the secret door which you have been describing whenever you wished to pass and repass from your room in the course of the day, or was it only on some particular occasion? When I was obliged to serve something in stated hours, I always looked through the key-hole, in order that I might be ready to serve.

Did you make use of that door to enter the dining-room on ordinary occasions, when you had occasion to do so in the course of the day, or did you consider yourself as under the necessity of going round by the other door? Sometimes I made use of it, according where the travellers were; sometimes yes, sometimes no.

Do you remember whether you made use of that door in the course of the day, during the six days that her royal highness the princess of Wales was at your inn? I had no need to do so; I never did it.

Earl *Grosvenor.*—Was the rest of the room under the same sort of canvas as the door? No; only my door that led into the dining-room.

Earl of *Darlington.*—What do you suppose to have been the thickness of the door? Not so much as an inch; not the thickness of my thumb.

Did the door open inwards or outwards? It was open sometimes from my room, and sometimes from the dining-room; it opened into the dining-room.

The following question and answer were read over to the witness:

"Are you still agent, or by whatever name you go, of the Grand Hotel at Trieste? I am after taking the inn which is called the Black Eagle; but if I do not gain the law suit, I shall continue to be in the Grand Hotel."

Lord Chancellor.—When you stated that, what did you mean? Because I have given a memorial to get this inn, by means of some protection; and I do not know whether I shall succeed, or whether some other innkeeper will have it.

What is it you allude to under the word "protection?" It is merely between the father and the son, by the means of an acquaintance they had with the innkeeper; they wished to take the inn from me, that I should not succeed to have the inn; and I have paid on account 100 tallers, which is a German money, two florins each.

The following questions and answers were read over to the witness:

"You have received no money? Yes; I did not wish to have any, but he has given me some.

"You did not wish for any money? I did not; he told me, take this, and gave me eight golden Napoleons and eleven francs.

"You are understood to have said that you did not wish for any money? I did not wish for any money."

Earl of *Roseberry.*—You have declared, that in coming here to give evidence upon this cause you suffer loss; why do you say you did not wish for any money? Because I had money with me; because I had by me nearly 100 sequins, which I can show.

Lord *Ellenborough.*—When you passed from your own room into the dining-room, by the door you call secret, did you push that door from you, or draw it towards you? When I open it I open it towards the dining-room; when I shut it, I draw it towards my room.

How were the walls of the dining-room covered? Painted all over.

Was the secret door painted? Painted.

Was the colour the same? Yes.

Was it painted at the same time? Yes.

Earl of *Limerick.*—Did the secret door reach

from the top to the bottom of the room, or was it of the ordinary size of doors? It was as high as that; a little higher than my head.

You have said that the canvas that covered the secret door was nailed down; were those nails so nailing down that canvas fixed at the top and at the bottom of the room? Round the door there was wood, and on this wood was a frame on which the canvas was nailed.

You mentioned that previous to her royal highness's arrival, apartments were ordered for her by some person whom you named by description; was it a usual thing for that person to give orders to have apartments prepared for others? No.

In point of fact, was any such order given shortly before or after, for any other person? If they sent letters of recommendation, then they sent to engage the apartments; if not, not.

[The witness was directed to withdraw.]

George William Goltermann, was sworn as Interpreter.

Then *Meidge Barbara Kress* was called in, and having been sworn, was examined as follows, through the interpretation of Mr. Goltermann, by Mr. Attorney General.

Are you the wife of Peter Kress? I am.

Where do you live? At Carlsruhe.

Are you a Protestant, a Lutheran? I am a Lutheran.

How long have you been married? Three years.

Before your marriage, did you live at the post inn, at Carlsruhe? Yes, I did.

How long did you live there? One year and three quarters.

Did you leave that inn in consequence of your marriage? Yes, that was the reason.

Do you remember the princess of Wales coming to that inn? Yes, I do.

Do you remember a person coming with her royal highness called Pergami? Yes, I do.

About how long ago was it that the princess came to the inn at Carlsruhe? It might perhaps be about three years.

Do you remember in what room in the house the princess of Wales slept? Yes, I do.

What was the room assigned to the princess of Wales; do you recollect the number? Yes, it was No. 10.

What room adjoined No. 10? It was No. 11.

How was No. 11 used; was it a sleeping-room or an eating-room? It was a dining-room.

What room adjoined No. 11 the dining-room? No 12.

What was No. 12; was it a bed-room or an eating room? A bed-room.

Who had that bed-room? Pergami.

Was there a door opening from No. 10 to No. 11? There was.

Was there also a door from No 11 into No. 12? Yes, a double one; there were two doors which both could be shut.

What sort of a bed was placed in No. 12? A broad bed.

Was that bed in No. 12 before the princess of Wales arrived, or was it placed there after her arrival, and in consequence of that arrival? There was another there before, but I had been ordered to put a broad bed; I had been obliged to put this broad bed in before the princess of Wales arrived.

Had the courier of the princess of Wales arrived before that bed was placed? The courier had arrived, and then I placed this broad bed to which I allude.

Was it your duty to attend to the bedrooms, were you the chambermaid of the inn? Yes, I was the maid of the rooms, chambermaid.

Do you recollect how long the princess remained at this inn? I cannot say exactly as to the time, but according to my recollection it was about a week, say eight days.

Do you remember on any evening during the princess's stay at that inn, having occasion to go to No. 12, to carry some water there? Yes, I do.

About what time of the evening was it, according to your recollection? I cannot remember; but to the best of my memory it was between seven and eight o'clock; the minutes I cannot tell exactly.

Do you recollect where the princess and Pergami had dined on that day? No, I cannot remember that.

Upon your carrying the water into No. 12, did you see any persons in that room? Yes, I did.

Who were they? Pergami and the princess.

Where was Pergami when you went into the room? Pergami was in bed.

Where was the princess? She had sat on the bed.

Do you mean she was sitting on the bed? Yes, on the bed.

Could you see whether Pergami had his clothes on or off? I could not see that, but I had seen as much in the moment I entered as that the arm was white.

Where did you see Pergami's arm? When I entered I had seen that Pergami had his arm round the neck of the princess, and when I entered the princess let the arm fall.

Was that arm of Pergami, which you saw round the princess white, as you have described it? Yes, as much as I had seen.

Can you describe, whether that white was his shirt, or any other dress that he had on? No, I cannot tell that, in the moment I had not observed that.

What did the princess do, on your coming into the room? The princess had jumped up, and was alarmed at the moment.

Did she jump up on your coming into the room and discovering them in that situation? Yes, she had then jumped up.

The Attorney-general asked the interpreter, whether the words meant that she had jumped up before the witness came into the room, or that she then jumped up.

Interpreter.—The literal translation of the words is, she got up, or she rose.

The interpreter was desired to repeat the German words used by the witness.

The interpreter stated them to be, "Sie ist in die hohe."

By a Lord to the Interpreter.—How do you translate that? She is up.

What is the English of that taken all together? Hohe is height, which will make, she is in the height, which otherwise means, in the language of this person, that she got up, or jumped up.

That she had got up? Yes, that she had jumped up, or got up.

Mr. Attorney General.—When you came into the room, was the princess sitting upon the bed? Yes.

Upon your coming into the room, and the princess being thus seated upon the bed, did the princess jump up.

Mr. Brougham objected to this, as a leading question.

Mr. Attorney General.—What did the princess do upon your coming into the room? The princess was frightened.

Interpreter.—The witness's German words which mean in the French "Elle est debout."

By a Lord to the Interpreter.—What is the English of that? *Interpreter.*—It is difficult to interpret it literally: "She had jumped up," or, "Had risen up."

Is not "steigen" the word to rise? *Interpreter.*—No, not exactly; that is more used in the north of Germany, whereas this is in the south of Germany.

Do you understand the witness to speak in the preterpluperfect tense? *Interpreter.*—I understand her to say, that when she came into the room the princess had got up or jumped up.

Mr. Attorney General.—Did the princess get up, or jump up in your presence? Yes, when I had entered the princess had got up, and I had retired.

An objection being taken by the bishop of Peterborough, that the interpreter had not given the right translation of the words, Mr. Brougham submitted that the examination of this witness might not be proceeded with, until there was an interpreter on behalf of her majesty in attendance.

The counsel were informed, that their lordships would postpone the further examination of this witness till to-morrow morning ten o'clock.

The *Attorney General* stated, that if the examination was now to be broken off, he trusted that their lordships would not suffer any other witness to be called until that examination was resumed.

The counsel were directed to withdraw. Ordered, that the further consideration and second reading of the bill be adjourned to to-morrow morning ten o'clock.

HOUSE OF LORDS.

Saturday, August, 26.

The order of the day being read for the further consideration and second reading of the Bill of Pains and Penalties against her majesty, and counsel being called in, Charles Kersten was sworn, as interpreter on behalf of her majesty.

Then *Meidge Barbara Kress* was again called in, and further examined as follows by Mr. Attorney General, through the interpretation of Mr. Goltermann.

You have stated yesterday, that when you entered the room, No. 12, on one evening, you saw the princess sitting on Pergami's bed, what happened after you saw the princess sitting on Pergami's bed? Am I asked the same evening still.

What did you see, when you observed the princess was sitting on Pergami's bed? I have seen the princess sit on the bed, and afterwards I withdrew.

Before you withdrew, what did the princess do; did the princess continue siting, or what else occurred? I saw that the princess jumped up; I withdrew, I was frightened.

You are understood to say, that you then withdrew? Yes.

Did you make up the bed in No. 12, Pergami's room? Yes.

Did you at any time, when you were making up the bed, discover any thing upon the bed? On the bed do you mean?

On or in the bed? In the bed I have found a cloak.

Was that a cloak appearing to belong to a female? Probably; because behind it had a kind of hood.

What did you with that cloak? I took it out and unfolded it.

At what time of the day was it you found this cloak in the bed? It was in the morning when I made the bed.

Describe a little more particularly the cloak—what it was made of? It was of silk, the colour grey.

Did you afterwards see any one wearing that cloak? A servant took it out of my hand.

Did you see any person wearing that cloak afterwards? [*Through the interpretation of Mr. Kersten.*] I have seen a cloak the next day upon the princess, but I cannot say that it was the same.

Mr. Attorney General.—Was it a cloak of a similar description to that you had seen upon the bed, that you saw the princess wearing? [*Through the interpretation of Mr. Goltermann.*] Yes, it was of the same colour.

Do you know whether it was of the same make—whether it was of silk that you saw.

upon the princess? Yes, it was likewise silk.

Had the cloak the princess was wearing a hood like that you saw in the bed? Yes, it had such a hood.

Did you, at any time in making up the bed, observe any thing else upon the sheets, or any part of the bed?

Mr. *Kersten*.—The word she uses is a word that cannot be expressed in English, unless by asking her what she means by it; she says, when once I made the bed I saw that the sheets were wüste. Now she says "Wüste," she may mean by "Wüste" in disorder, that is generally understood by this word; it is an adjective. "Wüste," in its proper meaning, is the English word "Waste." "Eine Wüste" means a desert.

What do you mean by the bed being "Wüste?"

Mr. *Goltermann*.—She is rather at a loss to explain it.

Mr. *Kersten*.—She says, it had stains.

Mr. *Goltermann*.—She was at first at a loss to express it, but afterwards she said it had stains.

The Interpreters were directed to give the interpretation of the evidence, word for word.

What sort of stains were they? [*Through the interpretation of Mr. Goltermann.*] As much as I have seen, they were white.

You have stated that you are a married woman? Yes.

What did those stains appear to be? I have not inspected them so nearly, but I have seen that they were white.

Have you ever made the beds of married persons? Yes; I have made all the beds that were in the house generally.

What was the appearance of those stains which you saw in Pergami's bed? You will pardon me; I have not reflected on this; I have had no thoughts on it whatever.

Were those stains dry or wet? Wet.

Mr. *Brougham* stated, that he had but few questions at present to put on cross-examination, but that he should reserve the bulk of his cross-examination to a future time, after inquiry had been made.

It was suggested to the counsel, whether they had not better reserve the whole of their cross-examination till a future time.

Mr. *Brougham* stated, that he wished to put some questions, in order to lead to those inquiries.

The counsel were directed to state the line they proposed to take in dividing their cross-examination.

Mr. *Brougham* stated, that he apprehended it was to follow from being refused a list of the witnesses that, after the witnesses were examined at first, they were then to have an opportunity of being put into the same situation as if they had obtained knowledge of their names and places before, by being enabled to cross-examine them again at a subsequent part of the proceedings, though he could not regularly allude to the grounds of that understanding.

Mr. *Denman* begged to call their lordships attention to what had passed since the commencement of this inquiry, in regard to another witness.

The counsel were informed, that no rule was laid down at present, and were directed to state what was the nature of their application; but that nothing could be more irregular, or more inconsistent with justice, generally speaking, than cross-examining a person more than once.

Mr. *Brougham* stated, that he was ready to admit cross-examining by piecemeal, in general cases, would not be regular, but begged to submit to their lordships the peculiar nature of their present position; that they had at first afforded to them no knowledge of the present situations or residences of any of the witnesses that were to be called against her majesty; that they had, in the second place, no intimation given to them of either the time with a convenient certainty, or the place with a convenient particularity, at which the alleged acts were said to have taken place, and that this peculiarity of their situation might well be deemed justly to authorise this other peculiarity, that instead of being called upon to cross-examine at once, and as it were, *unico contextu*, they should take advantage of an interval after the case against her majesty had been gone through to enable themselves to pursue that examination with greater effect after they should have been made acquainted with time and place.

The counsel were informed, that if their intention was, to cross-examine the witness as to her family or connexions, or situation in life, all that might be ascertained now; but that if they proposed to go into circumstantial evidence beyond what was sufficient to enable them to pursue the inquiries they might think necessary to justice, it was apprehended that could not be; and that that which was permitted to be done when Majoochi was called back was extremely irregular; and therefore, that until the matter was further considered, must not be taken as a precedent.

Mr. *Brougham* stated, that with respect to the circumstantial evidence, he should go no further than his lordship had suggested; namely, as to the certainty of time and place, leaving all the circumstances to a future examination; and that he proposed to go into the description of the person, her residence, and circumstances of that nature, leaving further questions on that point to the result of future inquiry; that if any of his questions appeared to go beyond that which their lordships were pleased to permit, he trusted he should not be considered as intending to trench upon their lordships rule.

The counsel was informed that he might proceed.

Cross-examined by Mr. *Brougham*.

How long were you chambermaid at the inn? [*Through the interpretation of Mr. Kersten.*] One year and three quarters.

Were you married at that time? No, I was not.

You were not married till you left the inn? I married after having left the inn.

What were you before you were chambermaid at the inn? I served likewise before.

In what place were you before that? I was at a village called Beyertam.

What service were you in before you were in the inn as chambermaid? I have been with the Geises just before; I was just before at my father's, before I went to the inn, for a quarter of a year.

Were you in any other family as a servant before that? Yes.

What family? At Beyertam, at several families.

Name one of those families? Marwey.

Who or what is Marwey? He is a landlord of an inn.

Were you chambermaid in his house? Yes.

How long? Half a year.

Where did Marwey live? He lives at Beyertam; the name of the place is Beyertam.

Where were you before you were in his family? At a servant's of the grand duke of Baden.

How long? Six years.

How old are you now? Past twenty-five.

Were you a servant anywhere before that time? No, I came to that place just on leaving the school, on leaving my father's house; on leaving school, I was going to say, that I was in another place for half-a-year.

What was that place? At Carlsruhe.

What was the name of the family? Schuabel.

What is Schuabel? A landlord.

Were you chambermaid in his inn? Cellar maid.

What is the office of a cellar maid in an inn? I have cleaned the rooms in the inn.

Mr. *Goltermann*.—I have cleaned the rooms where the master and mistress were, I have cleaned the public room in the inn.

Had you any other employment at any time besides those you have mentioned? [*Through the interpretation of Mr. Kersten.*] None.

Mr. *Goltermann*.—Besides the public room of the inn.

Is a waiter in an inn called a keller? Keller is a man servant.

Is kellermadchen which you have described yourself to have been, a woman who attends upon the man keller? She has nothing to attend to, but to clean the rooms of the inn.

How long have you been here? This day three weeks.

Whom did you come over with? With a courier.

What is his name? Reissner.

Was any body else with you? I took my brother with me, because I did not like to go by myself.

What is his name? Frederick Cleinbech.

How old is he? I cannot say this.

About what age? About twenty-eight, I cannot say to a certainty.

Who paid for your expenses coming over? I do not know what the courier paid during that time.

Who asked you to come over here? At Carlsruhe our minister M. Berckstett.

Did any other minister speak to you on the subject? When I was there, I had seen nobody else.

Mr. *Goltermann*.—When I was with him.

When you were at Carlsruhe did any other person speak to you about coming over here? [*Through Mr. Kersten.*] M. de Geilling.

Who is M. de Geilling? He is at court, I do not know what office he holds there.

Did any other person besides speak to you upon coming over? The ambassador of the court of Wirtemburgh, whilst I was still at the post inn.

Did any body else speak to you about coming over? M. de Reden.

Who or what is M. de Reden? They told me he was the ambassador of Hanover.

Does he live at Carlsruhe? Yes.

Where does he live in Carlsruhe? He lived at a Jew's whose name was Kusel.

Did he ever live any where else, but at that Jew's? I cannot say this.

Did he often come to the inn where you were chambermaid? I never saw him at the inn.

Did he examine you upon this subject? A. M. de Grimm asked me first.

Who is M. de Grimm? The ambassador of Wirtemburgh.

Did you ever leave Carlsruhe before, to go any where else on this business? Yes.

Were you ever at Vienna upon this business? No.

Did you ever see colonel Browne? No.

Did you ever see colonel Doering? I know

not what was the name of the gentleman where I was.

Where were you, in what place? At Hanover.

When did you go to Hanover? It was on leaving the post inn I was called to go there.

Mr. *Goltermann*.—The same quarter of the year.

Who called you to go there? [*Through Mr. Kersten.*] M. de Reden.

How long did you remain at Hanover upon that occasion? Six or seven days, I cannot tell exactly.

Were you examined there upon this subject? They asked me whether I had seen such and such things.

Did you go back from Hanover to Carlsruhe? Yes.

What did you get for going to Hanover? I received a small payment, just for the time I had lost.

How much was that small payment? I cannot exactly tell, it was little, very little.

About how much was it? About sixteen or eighteen ducats.

Mr. *Goltermann*.—Of which each makes five florins, she says.

What wages had you at the inn? [*Through Mr. Kersten.*] We had only twelve florins a-year at the inn, because they reckoned much upon the perquisites.

Did any body else give you any thing besides the sixteen or eighteen ducats? No, I received nothing else.

You are not asked whether you received nothing else at that time, or on that journey; but have you received nothing else? I have been obliged another time to go to Frankfort.

Who fetched you to go there? The valet de chambre of the Hanoverian minister went with me.

How long did you stop at Frankfort? Four or five days.

Were you examined there? They asked me what I had seen, and then I told it in the same manner.

Do you mean you then told it in the same manner as you have here? I have said the same thing as I said here.

What did they give you for going to Frankfort? Twelve or fourteen ducats.

Has any body given you any thing else? No, except the gentleman who fetched me from the post.

Do you mean the courier? I know not what he was; he was a foreigner or stranger.

What did he give you? He caused me twice to go there.

To go where? To the post, and then he told me that I should go to London; I said I would not until I was forced.

What did he say? He said I had better go, for it would come to that that I should be obliged to go.

Mr. *Goltermann*.—The witness adds, "then I said I would let it come to that point."

Did he give you any thing? [*Through Mr. Kersten.*] He gave me a ducat for my trouble for having called upon him; because I was then occupied.

Did he give you a ducat each time you called upon him, as you say you called twice? No, only the second time.

Did he promise you any thing? Nothing at all, because I said I would not go.

The counsel were directed to withdraw.

The Earl of *Lauderdale* objected to the line of cross-examination taken by the learned counsel. The reason that had been given to their lordships, to induce them to allow a cross-examination, at present, was, that no previous list of witnesses had been afforded to her majesty, who had not, therefore, any means of knowing the situations which the witnesses had filled, or their places of residence. Their lordships, in consequence, permitted a cross-examination, on the ground that those points should be explained; but when they did so, he supposed they meant that this permission should strictly apply to that species of information to which he had alluded. But the learned counsel had gone beyond that. He was asking questions that went to impeach the credit of the witness—a course which was so destructive of all justice, that he did not think their lordships intended to tolerate it. If those questions went to assail the credit of the witness (and he would maintain that much of what their lordships had heard had directly that effect), they could not be vindicated, as being asked with a view to get at the place of residence and the situation of the individual, but which must be presumed to have a very different object. If this course were allowed, let their lordships observe the example they would set to those persons who might cross-examine in future. He contended that the veracity or consistency of the witness was not a matter that should be then gone into, because it gave an advantage to the accusing party. It afforded the prosecutor, in summing up, an advantage that he would not otherwise have. He ought not to be allowed to know that which would enable him to shape his summing up differently from what he otherwise would do. Was it fair or right that the person accused should now conduct the cross-examination with a view to get out facts to impeach the credit of the witness hereafter, not on account of any information that he had received, but in consequence of facts elicited by a cross-examination, that

ought, in conformity with their lordships' direction, to be confined to particular points, because another opportunity would be allowed for a general examination. Such a precedent would be fatal to the interests of justice.

The *Lord Chancellor* thought, most unquestionably, that this cross-examination had gone far beyond the limits to which it ought to have been confined. Although their lordships would not interfere to prevent the learned counsel from obtaining a knowledge of who the witness was, what was her situation in life, where she now lived, where she previously resided, and what occupation she formerly followed; yet, if he proceeded to extract information from her by which her credibility might be impeached hereafter, it would be the most irregular and the most dangerous thing in the world to suffer him to go on. As far as the cross-examination went in the first instance to obtain a knowledge of the witness's situation in life, &c., their lordships would not stop it; but that end being effected, they could not allow the cross-examination to proceed farther. In what situation did the House stand? They must stop this antecedent cross-examination—because, if they did not, if they let it proceed, they could not, with any degree of regularity, ask a single question at a future time. If the cross-examination was not concluded, and the re-examination began, then they had a right to ask questions. But the present course would deprive them of that opportunity. How then would they be situated, if the witness were called up to answer the questions of counsel on a future day, their lordships being precluded from doing so? The proceeding was bad for both parties; it was peculiarly unfavourable to the illustrious person accused, because, as had been said by the noble earl, it put it in the power of the counsel for the prosecution to sum up differently from what he otherwise would have done. It went farther—it gave him an opportunity of knowing what witnesses to call, in order to bolster up the case, if he were inclined to do so. He thought that, so far as questions were put for the purpose of learning who and what the witness was, they were allowable; but it appeared to him that the learned counsel had pushed the cross-examination a great deal too far.

The ——— were again called in, and informed, that they were to confine their examination to the situation and character of life of the person called, in case they wished to postpone their full cross-examination to a future time.

Lord *Sidmouth* thought that the necessity of any cross-examination to these points, upon the ground that no list of witnesses had been furnished, was a plea which could not be maintained. If a list of witnesses had been granted, it would have contained only a statement of the name, occupation, and place of residence of each witness. The three first questions, put by the attorney-general, furnished that information, and he saw no necessity, therefore, for any cross-examination upon those points.

The Earl of *Liverpool* observed, that it was entirely in the option of the learned counsel to enter immediately upon the full cross-examination.

Mr. *Brougham* said, he perfectly understood that he was at liberty to enter into the full cross-examination now; but he had felt it necessary to defer it, for reasons which he had already stated to their lordships. At the same time their lordships would perhaps allow him to state what the question was which he meant to put. He wished to ask, with a view of identifying the person of the witness, and therein strictly confining himself to the limit laid down by their lordships, whether her brother had promised her nothing?

The counsel were informed, that their lordships did not consider that a proper question now to be put.

Mr. *Brougham* begged to know, whether he might ask the witness, where she was now.

The counsel were directed to withdraw.

The Duke of *Hamilton* said, he could not help viewing this question in a very different light from the noble viscount who had just spoken. If a list of the witnesses had been granted two months ago, her majesty's counsel would then have had such opportunities of inquiring not only into the residence but the character of the witnesses, as might have rendered a delay of the cross-examination unnecessary. He would make no observations upon the doctrine laid down by the noble and learned lord. The course might be contrary to the practice of the courts below; but it appeared to him that, by the rule prescribed, the counsel would be precluded from going into these inquiries which were most essential to their client's defence.

Lord *Sidmouth* repeated, that the plea of necessity for this cross-examination, on the ground that no list of witnesses had been furnished, could not be maintained. The names, occupations, and places of residence were all the information that would have been given in such a list, and this information had been furnished by the answers to the three first questions of the attorney-general.

The Earl of *Liverpool* said, the whole question was, whether the witnesses were to be sifted twice upon points connected with character. If there were to be two cross-examinations, it was fit that the first should be confined to name, residence, and occupation, and such facts as came out in the direct examination.

The *Lord Chancellor* could not agree with what had fallen from the noble viscount (Sidmouth), that the questions put by the attorney-general had quite the same effect as if a list of witnesses had been allowed. If a list of witnesses had been granted six weeks ago, such inquiries might have been made as to render all examination as to residence and occupation unnecessary. He knew no way of proceeding so as to do justice on both sides, but to impress upon the counsel as respectfully as he was able, that this House was endeavouring to do justice. It was difficult to limit specifically the questions which might be put by counsel, but he trusted they would be such as to come *bonâ fide* within the principle laid down by the House. He apprehended the question last put by the counsel did not come within that principle, because an inquiry into the present residence of the witness went directly to impeach her credit. At the same time, if it was their lordships' pleasure that this question should be put, God forbid that he should interpose. He only wished to impress upon their lordships the situation in which they were placed. If such a course were permitted, not only would it be impossible to enter into the re-examination, but it would be impossible for their lordships to put a single question to the witness. He trusted that the counsel would repose in the honour of the House, whose anxious endeavour it was to do justice on both sides; and, on the other hand, he doubted not that the House would repose in the honour of the counsel, who, he was persuaded, would put no other questions than those which came *bonâ fide* within the rule laid down by the House.

The Earl of *Donoughmore* said, he agreed entirely with the learned lord, as to the line of examination which he had just marked out. By pursuing this course her majesty would be placed precisely in the same situation as if the trial had been for high treason, and a list of witnesses had been furnished. He did not complain of her majesty's counsel for endeavouring to get the completest information they could for their client's advantage, but it was the duty of the House to stop them when they proceeded irregularly. He was of opinion that the House ought to have stopped them long ago. He must say their lordships had fallen into great error in the course of these proceedings, and had it not been for the deference which he felt to higher authorities, he should have interposed long ago. He thought it extremely improper, in the examination of that man Majoochi.

Earl *Grey* rose to order. He submitted to their lordships, whether the proceedings ought to be interrupted by such a discussion as the noble lord was now entering into?

The Earl of *Donoughmore* said, he would pursue that point no further; but he had other and still stronger reasons to show that the House was in error. He maintained that he was strictly in order, and he should be happy to hear his noble friend convince him that he was not in order. The learned lord on the woolsack had said, that the House had got into error, yet nobody had called the learned lord to order. It was admitted that their lordships had fallen into irregularities, in which they did not mean to persevere for the future. The facility of this House might possibly have occasioned great irregularities and great injustice out of doors. He agreed entirely in what had fallen from the noble viscount (Sidmouth). In ordinary cases the cross-examination followed the examination in chief; and why should it not in this? It was alleged, that a list of witnesses had not been granted, but the noble viscount had shown that all the information which would have been given in such a list was supplied by the examination in chief. The maxim of "*nunc pro tunc*," applied, and the same advantage was given now, which would have been afforded if a list of witnesses had been furnished in the first instance.

Lord *Erskine* said, that his noble friend had expressed his acquiescence in the argument of the noble viscount, and also

in the argument of the learned lord on the woolsack, which was in direct opposition to the argument of the noble viscount. He was of opinion, that the utmost indulgence should be given to the counsel for her majesty, because the House could not put them in the same situation now in which they would have been had they, as in a case of high treason, been previously furnished with a list of the witnesses, their professions, and their places of residence. He thought that whatever regarded the credibility of the witnesses should be matter of future cross-examination; but that every question ought now to be admitted which was preparatorily requisite to enable the counsel for her majesty to make the necessary inquiries into that credibility.

Earl *Grey* observed, that after the general approbation with which their lordships had received the observations which had fallen from the learned lord on the woolsack, it remained only to ascertain their lordships' pleasure with respect to the last question put by the counsel at the bar. Cries of "Go on! go on!"

The counsel were again called in, and informed, that that question ought not to be now put.

Mr. *Brougham* professed himself not to understand the decision of their lordships.

The Counsel were informed, that they might propose another question, and, if necessary, support it by argument; but that the House must proceed according to the rules by which it usually proceeded.

Mr. *Brougham* begged to propose a question upon the footing of the permission extending to the names and residences of the witnesses, namely—What is your place of residence?

The Counsel was informed that he might put that question.

Mr. *Brougham.*—Where do you now live? At Carlsruhe.

Where do you live at present in England?—

The *Attorney General.*—Allow me, my lords, to make a single observation on the course now about to be adopted. I understood your lordships to have distinctly stated, at the outset of the proceeding, in case my learned friends, who are counsel for her majesty, shall offer to your lordships sufficient grounds for having this witness, or any other in the same circumstances, only cross-examined in part, that they should be at liberty so to do, but not to exceed some reasonable and certain limits. But the rule now applied for is not that it shall be limited in this manner, but that the cross-examination of all the witnesses shall only take place in part, until the examination in chief shall have been completed. Surely your lordships will not give my learned friends such an election. If such a course be adopted, I have no hesitation in saying it will be subversive of the first and best interests of public justice, and laying down a bad precedent in all future proceedings of this nature. What is the hardship complained of on the other side? Why, that they have not had a list of witnesses. But your lordships have relieved them from the difficulty. You have allowed them to cross-examine twice; and, before the bill closes, they may be re-examined again [withdraw; order! go on].

Lord *Erskine.*—Why does not the interpreter give the witness's answer?

The *Lord Chancellor.*—Because the House objects to the question.

Earl of *Liverpool.*—Does the attorney general object to the question?

The *Attorney General.*—I do object to it, my lord. This is perhaps the most important question that has yet occurred. Unless my learned friends now cross-examine the witness, how are we to proceed? Am I to lay the whole of the evidence in support of the bill before your lordships, and that before there is any cross-examination on the other side? Why, my lords, such a proceeding was never heard of in any other court of justice. Is the cross-examination to proceed in this manner, by piecemeal? If it be, I shall be shut out from offering any explanation as to circumstances disclosed by the witness that may be even necessary; and it will be impossible for your lordships to place those who are to support the bill in the situation in which they ought to be placed. Why, my lords, until the whole of the cross-examination and the re-examination be closed, there can be no summing up by counsel. They now cross-examine in part—again they cross-examine in another part, and when or where is this to end? Let them either now proceed in the cross-examination of the witness, or defer it till the whole of the evidence in chief be closed; but they should not have the election they are requiring. They are placed in no difficulties on the other side, but what your lordships have agreed to relieve them from. Your lordships' rules are founded in justice, but while

you deal out justice to one side, I hope your lordships will not forget what is due to the other, and not place the parties in support of this bill in such a situation as no persons were ever placed before. I hope, my lords, the rule your lordships have laid down will be continued, and that you will oblige them to proceed with their cross-examination on the other side, with the permission of again cross-examining, if they lay proper grounds before your lordships.

Mr. *Brougham.*—I shall confine myself to the simple question before your lordships, and shall not presume to dispute the rule you have laid down. The only question I have now to contend for is, shall or shall not my question be put and answered? The question before your lordships, and the only question which must be first disposed of according to the practice of all other courts is, whether I am at liberty to ask this witness where she now lives? The Attorney General objects to this, and his ground of objection is, that I ought now to put not only this, but all the other questions which I have to put. His argument is not directed against this question, but that I do not put all the questions in my power to ask. But I will not argue this before your lordships. I am not called upon to do so. Your lordships have put me to my election, and I have made it, and within the narrow limits chalked out to me I shall proceed to the cross-examination of the witnesses. I do not argue against the rule as laid down by your lordships, but I am quite sure your lordships could not think of laying down any rule that would bind me one way now, and another way in a few minutes. You cannot all of a sudden change your rules: I cannot for a moment imagine you would do any. thing so monstrous. My question now is, where does this witness now live in England? In a case of high treason we could have all this in the list of witnesses; we could have had "Meidge Barbara Kress, spinster, or married woman, formerly of Carlsruhe, now of such a place in such a parish in Middlesex"—if your lordships object to that, I waive the question.

The *Lord Chancellor* felt great difficulty on this point, not on account of the importance of the present question, but as to the consequences likely to result from permitting such a mode of procedure. With reference to a former opinion, if he was not out of order in mentioning it, he had to say, that circumstances had since arisen which led considerably to alter it. But, supposing their lordships to adhere to the rule laid down, the question was, whether, with due application to that rule the question put by counsel should be permitted? For himself, he had objected to the last question being put, and on the same grounds he now objected to this. If a list of witnesses had been given, the counsel could not ask this witness where she now lived, unless he proceeded to the whole of his cross-examination. If he was wrong in this opinion, he was wrong after all the experience he had had for so many years, and wrong in common with the learned judges who sat near him: and he therefore said the question could not now be asked without going through the cross-examination. If this House had really adopted the right mode, for God's sake abide by it! But if it would be doing injustice to one of the parties, and to that one most interested, let not any notions of inconsistency prevent them from retracing their steps, and doing what was right. It was clear that at present the counsel for the prosecution could not be called on to re-examine; and he apprehended their lordships could not call for the summing up until the whole of the cross-examination and the re-examination had been gone through. He went further, and said, when the cross-examination was deferred, the re-examination must be deferred. It was not justice to ask merely a single question, and defer the remainder of the cross-examination. Their lordships must lay down some rule, beyond which they would not go, as to what might be the safest limit they would fix to the cross-examination of witnesses; but if it should go so far as it had done on this occasion, it would produce a practice most mischievous to the ends of justice.

Lord *Grenville*, before proceeding farther in this case of such extreme importance, thought it absolutely necessary that their lordships should take into their serious consideration the question that had now arisen. On this most important and anxious inquiry they should look with caution to the question of the cross-examination of witnesses; and if any rule had been suddenly or hastily laid down, they should revise and amend it as soon as possible. The difficulties arising out of their present situation were innumerable. When they had examined all the

witnesses in support of the charge, after every question had been put, could their lordships proceed in the ordinary way? could they call upon the counsel to sum up the case, they not knowing what might yet appear from a second cross-examination of their witnesses? It, therefore, appeared to him of the very last importance, that they should consider this point seriously, and lay down a strict, inflexible, invariable, rule of proceeding. But to do so, they must deliberate gravely; but, having once established the rule, they should adhere to it strictly, inflexibly, and invariably. Adverting to the partial cross-examination of witnesses by the counsel for the defence, there was in his mind great weight in what was urged by the counsel who made the objection. It would throw infinite difficulties in the way, if their lordships were to admit the examination in chief of all the witnesses, without allowing any addition to those witnesses, in consequence of what might arise out of the cross-examination. See the length to which this would carry them. Their lordships must not only defer the cross-examination to a future period, but they must reserve to the counsel for the bill a similar right to call new witnesses, in consequence of the cross-examination. The adjournment this day would give them one day to consider whether they could not lay down a clear and distinct rule by which to guide their proceedings on this important subject. Unless that were done now, they would, day by day, and hour by hour, find themselves involved in new and inextricable difficulties. He would venture, then, to suggest the propriety of turning their lordships thoughts to this point at once, and of deferring all other business until it was decided. The course hitherto followed had not been the most expedient. In not having anticipated the present difficulty they had not provided against it. He was sure their lordships would reconsider the subject without being embarrassed by any former error, or a wish to preserve consistency. He should therefore suggest the propriety of adjourning till Monday.

Lord *Redesdale* was anxious that any rule which their lordships might adopt on this occasion should not become a precedent, and a part of the future law and usage of parliament. He conceived that it should not be considered as a precedent in cases of impeachment or in bills of pains and penalties, or in any case but one exactly similar to the present. Their lordships ought to pause, therefore, before they departed from the ordinary course of proceeding. If their lordships came to any resolution on the subject, it should be so shaped as to apply to the peculiar case before them, and not to any other. He apprehended great danger and difficulty from the course of proceeding proposed to be adopted. Any departure from the usual course of courts of justice must at all times be attended with difficulty. It was at first arranged, that there should be a departure from that course, and now their lordships were called upon to make that departure a general rule. He considered the case to be this. The witnesses in this case were persons coming from different places, and respecting whom the counsel for the defence were unable to make those inquiries which could be made respecting persons residing in this country. In cases of treason a list of witnesses was allowed; and this gave the accused an opportunity to inquire into their habits and characters. That list contained not only the names of the witnesses, but also the different places where they resided. This not being the case on the present bill, time was to be allowed to the accused to make the necessary inquiries. But let their lordships consider what the consequence of the proposed proceeding would be. They were aware that nothing was more important to the ends of justice than that the cross-examination should follow the examination in chief, while the subject was fresh in their minds, and the witness was before them. Yet it was now proposed to postpone the cross-examination of all the evidence for the bill until the counsel for the defence should think fit that that cross-examination should take place. This was contrary to the acknowledged practice of the courts of justice; and it would be impossible to form an opinion upon a case so conducted, with the same certainty as if they proceeded in the ordinary way. Whether it was important that some of the witnesses should be re-examined was a very different question. But he would ask, whether there ever had been a case in which the cross-examination was postponed to an indefinite period? He knew not how the summing up could be with propriety laid before their lordships under such circumstances; because counsel could not know

the circumstances which would come out in the cross-examination. If their lordships did depart from the usual course —and he was of opinion that they ought not—but if they did, it ought to be by an express resolution of the House, so framed that it should not be brought into a precedent. Any advantange allowed to one side must be equally extended to the other; but in his opinion, the course proposed would certainly produce innumerable difficulties, as well as much delay.

Lord *Erskine*.—My lords; when I said a few words to your lordships some minutes ago, I anxiously wished to have been silent; I was afraid, and still feel the same painful impression, that in imputing the present difficulties to the rejection of my motion for communicating the times and places which ought to have been charged in the preamble of the bill, together with a list of the witnesses by which any criminal acts were intended to be established, I should seem to be setting up my own opinion against a judgment of the House; but in consequence of the proposed motion of my noble friend under the gallery, I feel that I am called upon to trouble your lordships once again. My noble and learned friend on the cross-bench, has said, that we ought strictly to observe the rules of parliament, applicable alike to impeachments and bills of this description; but let me ask whether in either of those modes of proceeding there ever was such a case as the present? Was any person ever before accused of a course of criminal conduct for six years together, in places, too, beyond the seas, without knowing from specific allegations, according to the rules of all courts, and the most obvious principles of justice, at what times she was to stand upon her defence? Was any person ever so charged with such numerous offences without any specification of place, though the accused had, during the whole period, been in constant motion by land and sea, from one extremity of Europe to the other? —Did this or any thing approaching it, ever happen before?—There was the less justification for this total departure from all the analogies of trial, since I did not ask to bind the House by the statute of king William, but only asked the names of the witnesses then in their power, and whom they then intended to call, without prejudice to the examination of others that might be legally admissible, from circumstances in the defence; and now, my lords, since the attorney-general has been heard, and since the witnesses have been examined, it appears that the Crown was then fully and perfectly acquainted, first as to time, not only of days, but the hours of every day for every thing they contemplated to prove, and as to place with the utmost certainty and precision. If, therefore, without stating what witnesses were to prove any particular facts, but only their names and descriptions, with the times and places of accusation, this communication had been made with a reasonable delay for commencing your proceedings, they would then have gone on in the ordinary course of other trials; whereas, you are now driven to cut them asunder, and cannot find any mode of making the division without confusion and injustice! By not pursuing so plain a course, into what a situation have we placed the illustrious accused and ourselves also. The evidence, the unsifted evidence, must be spread abroad, and has already been circulated not merely to be read, but to infect the mind with impressions that may never be effaced, and all this for months, perhaps, before any defence can be made, and our own minds in the same manner pre-occupied; and we are desired at last to adjourn, to consider what we should have decided before we began, and to alter what is past all remedy. There are some diseases where nothing but amputation can cure. This is precisely our condition; because, if we now gave to the learned counsel the most unlimited scope of cross-examination, how can witnesses be cross-examined whose character and situations are unknown, and to whose evidence there is no kind of clue? I foresaw this, my lords, and my only reason for taking any lead was, because few among your lordships had had so much experience in the courts of justice, and therefore, placed here beyond my merits, I thought myself bound in duty to act as I did, and because I wished to end my life as I began it, by reverencing the wise forms of the ordinary laws, the best security for the faithful administration of justice. As to the evidence—I will, so help me God, attend to it with the most impartial consideration; but I wished to be placed in a condition that our judgments may on neither side be surprised. I shall therefore, my lords, consent to an adjournment, but without much hope of its being now attended with the same advantages as if in the

outset we had pursued a different course.

The Earl of *Liverpool*.—I understand the wish of the noble baron opposite to be, to take this day to consider some measure by which many difficulties may be avoided in our future proceedings. To this I do not object; but I wish, before the motion is made, to say a few words in reply to the noble lord who spoke last, as well as to the noble lord (Grenville) under him. I cannot, I confess, consider that the difficulties attending this proceeding are so great, or so insurmountable, as they have been represented to be. I do not see any difficulties which are not likely to occur in cases of impeachment, in bills of pains and penalties, and in all other judicial proceedings which may come under the consideration of your lordships. The motion alluded to, respecting the list of witnesses, would, if granted in this case, have been inconsistent with the ends of justice. In the lower courts the accuser is one party, the defendant is another: the course of proceeding is definite. The instances in which the court may interfere are clearly marked out. But what is the case here? After the accuser and defendant have stated their case, there exists in your lordships an unlimited power to examine not only in chief, as the counsel on one side do, but also to cross-examine every witness. In short, you possess every power of inquiry known to our courts of justice. But this is not all: for it is competent for the members of this House to call back a witness whom they may think material. And even on any point of the case where the counsel on either side have omitted to examine the witnesses upon, it is in the power of this House to call the witness again and examine him or her to any of the facts. He was quite at a loss, in any view of the question, to see how any of the difficulties of this case would have been removed, had a list of the witnesses, which it was intended to call in support of the bill, been previously granted. The point immediately before their lordships, was the first on which any difficulty had occurred. In every former case, the counsel against the bill had been in the practice of cross-examining the witness fully; he had then been re-examined by the counsel for the bill, and, lastly, examined by their lordships. Such appeared to be the regular course of proceeding; but he by no means intended to say, that, according to what had already been fairly understood on the subject, on a special case being pointed out by the counsel against the bill, it would not be competent for such counsel to propose, or reasonable for their lordships to refuse that a witness should be brought back. But the question now was—and it was a question which was for the first time raised—whether there should be a power vested in the counsel of making their option, either to cross-examine immediately to the fullest extent, or to close the cross-examination before it had gone to the fullest extent, with a view of resuming it at a subsequent period? It had been said, that counsel ought to possess this option, and to have the power of calling witnesses back to proceed with a cross-examination, if they considered such a course for the interest of their client. If their lordships did not agree to this as a rule, he thought it indispensable that whatever other rule they might agree to, should be distinctly understood. On a particular occasion, when a case could be fairly made out, to show the necessity for such an indulgence, he had no doubt that their lordships would feel no difficulty in allowing the cross-examination of a witness to be postponed; but not on all cases, and as a general principle. If the cross-examination of any number of the witnesses was to be postponed, it would be impossible for their lordships to call on the counsel for the prosecution to sum up their case, until the cross-examination of those witnesses had fully taken place. That being his impression on the subject, and wishing that their lordships should have sufficient time to consider it, he was quite ready that further proceedings should be adjourned to Monday.

Lord *Grenville* entirely agreed with the noble earl, that the difficulty arose from the peculiar nature of the case itself. On this important subject, of the period at which the cross-examination of the witnesses should take place, whether partially or wholly after the examination in chief, that had hitherto proceeded upon an understanding, which, however, he now felt it necessary should be converted into a fixed and definite rule, from which their lordships should not hereafter be called upon to depart. He would not, at that time, state what practice he thought it best to adopt. What appeared to him to be the most desirable course was, that their lordships should turn their minds to the serious consideration of the subject,

and not come to any determination until they had called upon the counsel to state their reasons for urging a departure from the course usual in other courts of justice. After hearing that argument, their lordships should then determine on some fixed and definite rule, from which no consideration should induce them to depart. Of course no rule should be adopted which would exclude the great principle of doing justice to the parties concerned, and therefore no course or rule could be adopted by their lordships, either on that occasion or any other, which they might not be disposed to vary, on special and strong grounds being made out, to show, that by such a variation the ends of justice would be best promoted. But, on the other hand, their lordships would do well to take, as nearly as possible, for their guidance, the mode of proceeding established in courts of law;—and there was no principle so much guarded in courts of law, as that there should be fixed and known rules to go by; and that it should not be necessary, on any particular occasion, to travel over a wide ocean of argument, in search of rules and principles on which to act. For the purpose of enabling their lordships to prepare their minds for adopting—or at least for hearing—the argument which might induce them to adopt what should, upon the whole, appear to be the most eligible proceeding, he certainly thought it would be expedient to adjourn then, although it was a much earlier hour than that to which their lordships had agreed to extend their sitting during the progress of the important measure before them.

The Marquis of *Lansdown* was also of opinion, that an opportunity ought to be afforded to their lordships fully to consider this, which was a point of the last importance; and that, when once the rule should have been laid down, that in the whole course of the proceedings it should not be departed from. He thought this the more especially necessary with reference to the right of his majesty's attorney-general to sum up the whole of the case, or only parts, as he might think fit, if their lordships should determine, which they had not yet determined, that the cross-examination might take place at various periods. The fullest consideration and attention was due from their lordships to so important a part of the proceedings connected with the great question before them. The discussion in which their lordships had been for some time engaged had entirely arisen on a question put to the witness by the learned counsel for the Queen, and objected to by his majesty's attorney-general. In his opinion, the ends of justice would be best consulted, if the counsel on both sides were informed what the particular state of the question was, and if a resolution was adopted to enable the counsel to be heard in argument in support of their respective positions. Or, without coming to any such resolution, counsel might be called in and heard in the manner he had suggested. That would, in his opinion, be the best way to attain what he was sure was the wish of all their lordships, namely, the ends of justice, by a full and accurate investigation of the case. He therefore ventured to recommend to their lordships, that, before the question of adjournment was put, the counsel should be called in, and should receive from the lord chancellor the information which he had suggested.

Lord *Grenville* perfectly concurred with his noble friend in the object which he had in view. It was certainly expedient that the counsel should be required to state if they proposed any, and if any, what departure from the ordinary practice of cross-examination immediately following the direct examination. Their lordships would, of course, hear both sides; and he was sure they would do so with an earnest desire and determination to adopt that course which they should conscientiously conclude to be the most consonant to the interests of justice.

Lord *Ellenborough*, before the question of adjournment was put, requested that their lordships might have an opportunity of hearing the counsel upon that point, one on each side.

The Earl of *Liverpool* agreed with the noble lord, provided the counsel were prepared to argue the question.

Lord *Ellenborough* apprehended it was the duty of the counsel on both sides to be prepared to argue at once any point that might occur.

The Counsel were then called in, and informed, that the counsel against the bill were requested to state, whether they were desirous of proposing any, and what, departure in these proceedings from the usual course of cross-examination, and if so, that they were at liberty to be heard in support of such proposal; and that the counsel in support of the bill, if they desired it, might be heard in objection to

such proposal. It was further intimated to the counsel against the bill, that if they were not prepared at the present moment to state that which they desired, and to support it by argument, but wished for further time, the House would be ready to grant their request.

Mr. *Brougham.*—I trust your lordships will give me leave to say a few words with respect to the great embarrassment in which I feel myself on this subject. I am asked to state, and to support that statement by reasons, if I propose any departure from the usual course, which, in my opinion, and with reference to the present proceeding, may be desirable, with a view to promote the ends of public justice. My lords, I know, that in ordinary cases I am bound, by my professional duty, to be ready at all times to address the Court in which I may have the honour to plead. I know, that in ordinary cases I am never allowed to complain of being taken unawares, and of thereby being prevented from making whatever suggestions may appear to me to be favourable to the cause of my client. I know, that the ends of justice can be attained on any controverted point only by allowing each party to be heard by their counsel, and by then leaving the Court to decide on the merits of the case. But, my lords, although, in ordinary proceedings, in proceedings where there are rules and precedents either known or analogous, I should not be allowed to complain if I were taken unawares by a requisition to state my objections to the usual course pursued, yet I most humbly, and with the greatest confidence in your lordships' justice, suggest that, with reference to the interests of my client (those interests which I am bound especially to attend to), it is very hard (to say no more) to be called on to point out at once what, in my opinion, ought to be the general course of proceeding, in an inquiry which has no precedent, which has no parallel, which is utterly new, and respecting which, therefore, I can have no guide. My lords, I may be allowed to add, that I am only one of six counsel in this case. I am the leader undoubtedly, and on my shoulders must fall the responsibility consequent on such a station;—a responsibility from which I have never for a moment shrunk. But, my lords, it is indeed a fearful responsibility which I am called upon to assume, when I am required to state at once the result of all our six opinions on a point as delicate and difficult as it is important, without having the opportunity afforded me of even turning round for an instant to ascertain the opinion of my colleagues upon the subject. I cannot tell whether they may not think that I ought to make no proposition on the subject, but to leave it entirely to your lordships' uninfluenced determination. I cannot tell whether, in their superior wisdom, they may not conceive that the refusal of a list of the witnesses, and of an enumeration of the times and places at which the alleged facts were committed, which it seemed good to your lordships to decree, has tainted the whole of these proceedings with a mischief for which there is now no remedy. I cannot tell whether they may not be disposed to argue, that the course which your lordships have adopted, is a course which cannot be retraced. On the other hand, I cannot tell whether they may not consider themselves bound to suggest to your lordships, that the course which has been hitherto pursued—although a course which cannot be wholly retraced, or altogether deprived of the mischief which it has occasioned—may nevertheless be retraced to a certain degree; by granting for example now, what ought originally not to have been withholden from us, and then adjourning further proceedings so as now to put yourselves, when you perceive what the effect of that withholding has hitherto been—

The Earl of *Liverpool.*—I am extremely sorry to interrupt the learned counsel, but all the House wish to know is, whether he wishes for time to argue this, or is ready to argue it now. My own opinion is, that it is impossible to refuse the learned counsel the time for that if he wishes it; but I think we should be misspending our time by hearing half the argument to-day and half on Monday.

Mr. *Brougham.*—My lords, I was only running over the difficulties that struck my mind, without the intention of arguing them, but only praying your lordships to observe how manifest and how important all those questions are—all of which I must dispose of before I could be heard to make the suggestion. I only therefore wish to say, that I desire delay for the purpose of consulting my colleagues.

Lord Chancellor.—It is not too much for the counsel to ask for delay, when the House itself has asked for forty-eight hours to consider.

Adjourned to Monday.

HOUSE OF LORDS.
Monday, August 28.

The House being called over,

The Earl of *Lauderdale* observed, that before the motion for counsel being called in was acceded to, he rose to express his satisfaction at the decision their lordships had come to on Saturday. Had the other course been adopted—had that House agreed to any resolution by which it was left open to the suggestions of counsel to tell their lordships what it would be proper and expedient in them to pursue, he should have pronounced it as wholly unprecedented in the usage and practice of parliament. To leave it to counsel to suggest to that House what they, the counsel, thought should be the conduct of that House, would be not only an unprecedented proceeding, but an actual surrender of their most essential privileges. Did their lordships mean to say, that five members of the House of Commons, acting with others, as counsel at that bar of the Lords, were to prescribe the form and manner of their proceedings? Let their lordships but consider the meaning of the rule which was laid down as to the examination of the evidence, and they would see that the whole of the difficulty arose from a misunderstanding of that rule. That rule was founded on the practice of the courts of law, where, subsequently to the examination in chief, the cross-examination of the witness was immediately proceeded upon; but if, in the subsequent course of the case, any facts were discovered which were material to the ends of justice, and to the developement of which the re-production of the witnesses was necessary, it was then their lordships would, of course, take into their consideration such an application. A rule so plain it was difficult to misunderstand; and the fact was, that up to Saturday last there was no deviation from it. Let, then, the course be steadily persevered in; let the cross-examination of the evidence be continued conformably to the usage of the courts of law; and let that House, if subsequently the ends of justice require the re-production of the witness, be ready to attend, and to consider the grounds of such an application.

Lord *Manners* trusted their lordships would feel most sensibly the danger of any deviation from the accustomed rules of evidence and examination, which were so strictly observed in courts of justice, which experience had demonstrated as most competent to the attainment of justice, and that House should consider as its best and safest guide. In conformity with that usage, he contended the fullest justice could be rendered. If, for instance, in the subsequent proceedings of this case, any knowledge of facts may reach counsel, which were material to the attainment of justice and of truth, it would be open to counsel to state a case to that House, which, if considered as entitling them to the indulgence, would allow the fullest inquiry. The course that he should recommend was, that the learned counsel should suggest what questions he wished to have put to the witness on the re-examination, to the lord chancellor, in order that such interrogatories might be put by him. That was the usage in our courts of criminal law, where, on any after knowledge, a witness was recalled on the application of counsel, and the questions were put by the learned judge presiding. It had been said that their lordships were placed in a dilemma, and that such dilemma was the effect of their rejection of a motion of a noble and learned friend of his (lord Erskine). It was natural that his noble friend who introduced that motion, should still continue to feel strongly its propriety and the bad effects of its rejection. But he (lord Manners) must be allowed to say, that, in refusing that motion, their lordships acted prudently, wisely, and conveniently. He had never yet heard that it was held by any authority, that a proceeding exclusively confined to cases of high treason, should be extended to other modes. Such an exclusion would not be convenient in practice, and was far from being even proved reasonable in principle. But then it was said, that there was something so peculiar in the present case, that it ought to have been made an exception. He must confess that he did not feel the force of such a conclusion, On the contrary, he conceived that the making such a precedent would be attended with most prejudicial consequences in all future cases of an analogous description. His noble and learned friend (Erskine) had recommended to assimilate their practice to the rules and usage of Westminster-Hall, how his noble friend could reconcile such a recommendation with his regret that his former motion was rejected, he confessed himself at a loss to discover. If, in the subsequent progress of this proceeding,

the counsel for her majesty were able to make out a case for the re-examination of a witness, they might confidently rely on the sense of justice in that House, that such an application would not be refused. But what ought not to be granted was that which the counsel against the bill aimed at; namely, an examination as to facts which were not now within their knowledge, but which they think they may be informed of hereafter. He should therefore move :—"That the lord-chancellor be directed to instruct the counsel against the bill, that if at any time they should be desirous to re-examine a witness already cross-examined, they must state a case as the ground of that re-examination, and that if it should be the pleasure of the House to allow the re-examination the questions must be submitted to the House, in order to their being put by the lord chancellor."

Lord *Erskine* observed, that such alterations of opinion as were manifested, seemed to him to prove that noble lords forgot the truth, that "man who is born of a woman had but a short time to live." Last Saturday they agreed to adjourn, for the purpose of considering the limitation or the extent of a rule, and to hear the arguments of counsel as to that rule; to-day his noble friends congratulated the House on the adjournment of Saturday, although, in the same breath, they say, that there was no difficulty whatever in the case. Surely then, if there was no difficulty, the adjournment was unnecessary; and if at one o'clock on Saturday there was no difficulty, it did not require forty-eight hours to deliberate where no deliberation was required. Why did not his noble friends state then that full conviction they now entertained? Why then decide on the necessity of time for the deliberation the nature of a proposition on which there was no doubt? For his part, when he declared that he felt disappointed in the rejection of his motion for the list of witnesses, and that every hour and every measure since taken, induced him more firmly to continue in that opinion, he was still, not so arrogantly disposed as to set up his judgment against the collective judgment of that House. But, though then disappointed, he would even now state what, under present circumstances, ought to be the conduct of their lordships. It was impossible in his mind, to follow the course laid down by his noble and learned friend. There were but two modes of proceeding—either to confine your practice as closely as possible to the usage of the courts of law, or to take the line you have already followed, and allow the cross-examination in the first instance to be resumed whenever the ends of public justice require that resumption. For, my lords (said lord Erskine), it was clearly understood, and I should feel myself disgraced if I did not assert it, that such was your lordships, laid-down decision. It was declared over and over again, on the rejection of the motion that I had the honour to propose, that, after the case in favour of the bill was closed, a reasonable time should be allowed to the Queen to prepare for her defence; and that when the House again assembled, her majesty's counsel, prepared as they then would be, were to be at liberty to cross-examine the witnesses. Why, my lords, with regard to the justice of the case, what other decision could you have made? Could you say that witnesses were to be at once cross-examined as to facts alleged to have taken place in Italy, in Africa, and at Jerusalem? But then it was said :—"delay the cross-examination altogether." What, my lords, was this accusation to remain for two months without any statement from the accused? Was the evidence brought forward against the Queen to go out to the public, and remain for two months unsifted unquestioned, and unanswered? Was such a publication to be made to the world, and from the infirmity of human reasoning, not to be attended with great danger to the accused? How, then, was this danger to be even partially diminished? I say, by cross-examining, as far as you can, that testimony; though it removes not the whole, it lessens a little the difficulty and danger I have described. The evidence will not then go out to the world unsifted and unexamined. That course we were pursuing, when one of my learned friends (Mr. Brougham) in putting a question to the witness, was interrupted, in my opinion most improperly, by the Attorney General. I say improperly, because I contend that the question (which was "Where do you live?") he had a right to put. But my noble and learned friend (lord Manners) misrepresents me, not, I am confident, wilfully, when he charges me with an inconsistency, because I say, we should assimilate, as nearly as possible, our practice to that of Westminster-Hall. I say so still; but I must say, the

course that would limit the cross-examination of witnesses, differs as much from the usage of Westminster-Hall, as darkness from light. Let, then, the cross-examination of witnesses go on, without any limitation whatsoever. Let the learned counsel extend that examination as far as they please, and stop where they please; and here, my lords, allow me to say, that when you consider the very laborious, and responsible and delicate situation in which the counsel for her majesty are placed, you surely should feel inclined, in place of interruption or disapprobation, to extend to them the fullest indulgence, This is the course of proceeding which I recommend to be followed; when the House, after its adjournment, shall again assemble, it will be time enough to consider what will then be essential to the circumstances of that period: "Sufficient unto the day is the evil thereof." Whenever I can assimilate the rule here to the usage of Westminster-Hall, I will most readily do so; but, where I cannot, I will apply the more general rule of humanity, justice, and fair-dealing. There would soon be an end of our courts of justice, if public opinion did not in some degree preside in them; and believe me, my, lords, it is in vain to say that public opinion, in its best sense, has not been disappointed in the refusals which have been given to the applications of the Queen for a specification of facts, alleged to have occurred through a course of six years, and over a space of more than a thousand miles. In Scotland it has been the invariable custom, to give every person who has pleaded, a return of the list of witnesses. But this House has no limitations on that head; it is bound by no strict attention to the rules or usages of courts of law; but it is bound by what is due to the certain, invariable, immutable ends of justice. Those ends, I am sorry to say, were not, in my opinion, considered, when the refusal I regret was made to the motion for a list of witnesses, or for a specification of the places. I am an old man, and have had more experience than most of your lordships in proceedings of this kind. I could have no interest, no object, in attempting to mislead you; and, therefore, I shall ever defend myself against any imputation which may be directed against the purity of my motives, in doing what, I thank my God, I have done; and which, under similar circumstances, if unhappily they occurred, I should repeat.

The Earl of *Liverpool* contended, that the privilege applied for by her majesty's counsel was not only contrary to the practice of their lordships own House, but to the universal usage of all inferior courts of law. In the discussions which had taken place previous to the introduction of the bill, he had declared, that although he felt it to be the duty of the authors of the measure to refuse a list of the witnesses to be examined in support of it, he was yet perfectly ready to grant any reasonable interval of time to enable her majesty to bring over her own witnesses and make her defence. That was a concession which he both then and now considered to be of infinitely greater advantage than the furnishing a list of witnesses; because, in the latter case, her majesty would come to her defence without knowing before-hand one word of what the witnesses against her had to say; but according to the course which he had suggested, she would come with the knowledge of all that had been said against her, and having the benefit of the delay of the proceedings to procure evidence to rebut it, if it were possible. Therefore, if there were any disadvantages attendant on the mode of proceedings adopted—and that there were disadvantages he did not pretend to deny—he contended they were infinitely more than compensated by the advantages arising from the privilege that had been proposed on that side of the House.—He now came to the question immediately under consideration, and with respect to a matter of fact connected therewith, he thought a noble lord had not been quite correct in his statement. He had talked of an interval in the proceedings, as if something had occurred in the House which gave her majesty's counsel an option as to the time of cross-examining the witnesses. Nothing of the kind had been said in the House according to his understanding of the matter. He was sure he had not said any thing of that nature; but this he had said, that if any special reason could be made out by her majesty's counsel for calling a witness a second time to the bar, he thought their lordships would be disposed to grant all the indulgence in their power, and to afford a greater latitude than could be allowed in a common case. Up to Saturday every thing had gone on regularly; the witnesses had been examined, cross-examined, re-examined by the counsel, and, what was the most

material, examined by their lordships. On Saturday, when this woman from Germany had been examined at the bar, the Queen's attorney-general applied for leave to put off her cross-examination altogether, except to ascertain her place of residence. He could not help thinking that their lordships had acted wrong on that occasion; for if they had allowed the cross-examination to be put off altogether with the exception he had mentioned, they should have only permitted the counsel to question the witness as to the places and houses she had lived in; but if he had any recollection of the course which the learned counsel had pursued, his questions went principally to impeach the credit of the woman's testimony; for he had asked how she had come to this country, with whom, whether she had received any money for coming, and so forth; whereas, agreeably to the permission granted, his cross-examination should have been confined to the single question of where she had lived.—He had adverted to what had occurred before, in order that their lordships might now see their way more clearly. If the House had inadvertently fallen into any error, he was sure that no consideration would prevent them from retracing their steps, and endeavouring to rectify it. With respect to the allowing the cross-examination to be adjourned altogether, he only wished their lordships to consider in what situation they would be placed if they acceded to such a request. In the first place, he was of opinion, that if that should be done, their lordships would be altogether precluded from examining witnesses themselves. Now, he believed, without meaning to say any thing derogatory of any person, that some of the most material questions that had been put in the course of the investigation, had been among those proposed by their lordships, and that was a thing naturally to be expected; for each of the other parties examining, appearing there on a distinct side of the question, put their questions accordingly; whereas their lordships, sitting as judges between both, had framed their inquiries with a view of bringing the answers before made, to some certain issue. But that was not the only inconvenience to be apprehended from acceding to the application; for how, he asked them, when such a rule had been adopted, could they call upon the attorney-general to sum up the evidence, inasmuch as a necessity for calling fresh witnesses on the part of the prosecutors might be expected to arise out of the adjourned cross-examination, and this, he might observe, was one of the reasons he was of opinion that a list of witnesses should be withheld. They could never call on the attorney or solicitor-general to sum up the evidence or close the case, until the cross examination of their own witnesses should have been concluded. The course sought to be followed would be one of monstrous inconvenience. He thought that this investigation should go on like any other case, first in examination in chief, then a cross-examination, afterwards a re-examination by the counsel for the bill, and afterwards an examination by their lordships; and if afterwards any special reason could be stated why witnesses should be called to the bar a second time, he was sure their lordships would be ready to view the application with greater liberality and indulgence than could be extended in any ordinary case. He differed from the noble lord, therefore, in thinking that her majesty's counsel ought not to receive any power of putting off any cross-examination, in order to originate it at any subsequent point of time, but that going on with the cross-examination of witnesses regularly, they should not be refused the right of calling up any witness for a renewed cross-examination, in case they could show sufficient special grounds to render it necessary.

The Marquis of *Lansdown* said, that after what had fallen from his noble friend on the cross-bench (lord Lauderdale), and after the desire which was generally felt on Saturday, that counsel should be called in, he was anxious to state distinctly the view which he entertained of the question. It was not desired to call in counsel for the purpose of inviting him to suggest or to dictate to their lordships the precise mode of proceeding which they ought to follow; but it was, that if their lordships were about to adopt a rule deviating from the ordinary course, then that counsel should be heard, to instruct their lordships with respect to that deviation. Their lordships could not wish to act unjustly; had they even adopted the rule without hearing counsel, and should a special cause arise to convince them that it ought to be departed from, they would do so even after making the rule. With reference to what had fallen from the noble earl (Liverpool), he re-

membered that when the rule was laid down, there was an understanding that on application being made, a further examination might be granted; but the subject of an adjourned cross-examination did not come under the consideration of the House. Nevertheless, though it did not then come under the consideration of the House, it still became a fair subject of consideration afterwards; the more so when it was said, that every facility would be given to the counsel for her majesty—when it was stated by the noble earl that an equivalent would be given to the counsel for her majesty for the advantage which they had lost, by being refused a list of the witnesses against her. He gave the noble earl credit for a wish to let them have that equivalent; but, for his own part, he did not think it was possible for the noble earl—he did not believe that it was in the power of the House, to give to the counsel for her majesty any thing in the way of an equivalent for the advantage which the cause of their illustrious client would derive from a full and immediate cross-examination—for that examination which they would be able to have, if the list of the witnesses were furnished to her majesty in the first instance. It never should be forgotten that this case was before the public as well as before their lordships; the public who were as anxious as to its result as their lordships could possibly be. It was always found to advance the cause of public justice, that the cross-examination should immediately follow the examination in chief; but their lordships must agree with him in opinion that the counsel for the Queen were deprived of that advantage. He could not agree with his noble friend on the cross-bench that the House could get so easily rid of the difficulties with which they were surrounded. They might alter the names of things, but that would not deprive them of their essence. The examination contended for by the counsel for the Queen, was nothing nothing more than a cross-examination, and a cross-examination too of the most important kind. What the nature of that cross-examination might be, must spring altogether from the particular cross-examination of the witness—for instance, in the case of the witness from Trieste, of that witness, the counsel for her majesty had no knowledge, in consequence of having been refused a list of witnesses. Would any one deny that that witness ought not to be called up a second time by the counsel for the Queen—would any one say, that, after acquiring some knowledge of the witness, and of circumstances connected with him, it would be only fair and just to allow them to cross-examine him on a subsequent occasion? As long as in the opinion of their lordships, a necessity existed for a still further examination, they could not deny to the party the fair advantage of that examination. Of course such a proceeding would occasion great delay. Their lordships could not call on the attorney-general to close his case; they would do great injustice to the Crown, and to the attorney-general to call on him to close his case whilst any further cross examination was to be gone into. Their lordships, most of all, as concerned the Queen, could not act with justice if they did not give her the opportunity which she asked, of inquiring into circumstances essential to that knowledge of the witnesses which would alone enable her to enter on a full and effective cross-examination of them. So far from agreeing, then, with his noble friend that there was no difficulty before them, he saw no part of the proceeding that was not surrounded with difficulty. The difficulty which he stated was as great as any attending it, and infinitely more than would attend the proposition of his noble friend (lord Erskine), when he called on their lordships, in the first instance, to furnish her majesty with a list of the witnesses to be produced against her; a mode of proceeding which would have promoted the attainment of justice, which was not in violation of any precedent, but, on the contrary, was analogous to the ancient law, as administered to this day in all criminal cases, in the northern county. It was not less for the interests of justice, but it was, in point of convenience, essential that her majesty should have been put in possession of the names of those who were to be called as witnesses against her; if this had been the case, their lordships, in the case of Barbara Kress, would not have been obliged to leave open the cross-examination for two days, but might have proceeded in the investigation with effect, and without delay.

Lord *Ellenborough* thought, that if the course taken by the House on Saturday was followed up, a most fatal precedent would be established, a precedent which would at any time give counsel an opportunity of interposing a delay of twenty-

four hours in the course of an inquiry. If heard at all on the question, whether the usual course of cross-examination should be departed from, he thought the learned counsel ought to have been heard on Saturday, but he was glad that their lordships had thought proper to adjourn, as their doing this afforded them an opportunity of abandoning that course into which they had been betrayed, and which, if followed up, could not have failed to produce the most injurious consequences. He then stated the argument on both sides, and gave it as his opinion, that the delay to be allowed between the evidence for the prosecution and that for the defence, was much more than equivalent to any advantage that the Queen could have hoped to derive from being indulged with a list of the witnesses. He showed that a great advantage was thus afforded to her majesty's defenders, and proceeded to argue, that if the claim for delay were admitted, they could never hope to arrive at the conclusion of these proceedings. If eight or ten weeks were allowed to prepare for the cross-examination, could their lordships in fairness refuse to concede a similar indulgence to the officers of the Crown? It might to them appear necessary, in consequence of what came out in the cross-examinations, to call new witnesses, and then a new delay might be called for to cross-examine them, and subsequently a still further delay preparatory to their re-examination. Acting thus, it was impossible for them to foresee the period at which the attorney-general could close his case. He was of opinion that the cross-examination ought to proceed as it had done in the former part of the inquiry.

The *Lord Chancellor* said, that in considering the present question, he should not make any observations on questions which the House had already discussed—he meant the refusal of a list of witnesses, and of a specification of times and places. With all the respect which he entertained for the noble lords who differed from him on those points, he should still, if called on, give the same vote as formerly, because he was convinced in his conscience that that list would not have obviated one-fortieth part of the present difficulties. He congratulated their lordships that they had paused on Saturday, for he was sure that a more mischievous precedent could not be laid down than the course which they were then pursuing, though he must confess that at first he thought it was the right course. Every one who observed the course of parliamentary business would see that the Houses of Parliament did not always regulate themselves by the practice of the courts below; but unquestionably the nearer that parliamentary proceedings in judicial cases were assimilated in form to those of the courts of law, the better it was in every point of view. He should briefly state to the House what had been done in the present case. The first witness examined was, Theodore Majocchi: he had been examined, cross-examined, and re-examined for it must be borne in mind that there could be no re-examination till after the cross-examination. Then their lordships had put various questions to the witness; and he would take that opportunity of observing, that when their lordships examined a witness, after the cross-examination, and the re-examination, it was a mistake to say, that they could not put leading questions. Paturzo had next been examined and cross-examined; and at the conclusion of his cross-examination the Queen's attorney-general expressed a hope that their lordships would not prevent him, as well as the preceding witness, from being recalled, in case of the counsel receiving any information that might render it material to do so. He (the lord chancellor) had then addressed the learned counsel, and had said what he believed to be perfectly correct—that the House would judge of the application when made, and of the circumstances attending it. It would be likewise in their lordships' recollection, that, on the subsequent day, when the next witness Vincenzo Gargiulo had been examined, cross-examined, re-examined, and examined by the House, the counsel for her majesty stated, that in consequence of information which was deemed important by him and his coadjutors, he was anxious to put one question to Theodore Majocchi, and the first he proposed to ask was, whether the witness had been at Bristol during the last year? A noble lord, in remarking on this application, had asked if their lordships would agree to take the cross-examination piece-meal? and Mr. Brougham admitted that the proceeding was not regular, and said he intended to put only two or three questions. On the number of questions that had been proposed to the witness, he would not make any observations, because he was aware that one led unavoidably to another. On Saturday it was proposed to make the

cross-examinations extremely limited in the first instance. Whether that rule was right or wrong, was a different question; but if their lordships would take the trouble to look at the questions put, and answers obtained under that permission, they would not hesitate to say, that the cross-examination had gone to a length far beyond that limit. He did apprehend—at least it was his individual opinion—that in a case like the present, where, if he could, he would regulate himself by judicial principles, he ought, as a judge, to have interposed in that cross-examination long before another noble lord took that course. Now, as to the question, whether counsel on this occasion did, not only what had never been done before, but what never had been even proposed to be done; he would not deny that there existed great difficulty on every side, but he would call on their lordships to consider what was the mode of proceeding most consonant to the practice which had been established from age to age, and had never been broken in upon in a single instance. In the first place, he would ask in what condition the House would place the witnesses, if, instead of the cross-examination following immediately after the examination in chief, they were to allow it to be deferred? What were they going to do with the witnesses? The ordinary rules of justice always required, for the sake of the witness himself, that he should be immediately cross-examined; because it was not only important to the parties that he should not return from the bar to meditate on his evidence, but it was important to himself, that in case he had not been clearly understood, it might be in the power of the court, without delay, to put such questions as would set him right, both with the court and the parties. Again, it might be necessary to call another witness, to confirm the evidence of the preceding one, which might have been shaken by cross-examination. But the difficulty did not rest here. Take the instance of the case at the bar. Was it possible for the attorney-general to say he had closed his case, or to know what witnesses he might require, before he had heard all the examinations? Then there was another thing, and that was this—if counsel did not cross-examine now, the re-examination could not take place; and till the re-examination had taken place, not one of their lordships could put a single question to the witness. He called on their lordships not to remove established land-marks because they could not look comfortably at a difficulty, but rather to struggle patiently with it, and endeavour to overcome it without violating established rules. In regulating his vote, it would be impossible for him to agree to any course but that which was consonant to all established practice; namely, that counsel be called on to cross-examine the witnesses immediately, as far as they could, with liberty to recall them afterwards, on showing sufficient grounds for doing so; and when he said "sufficient grounds," he did not mean to restrict that permission within too narrow limits; for he would rather in such a case open than shut the door for extending that permission. He conjured their lordships to believe him—and he spoke on the experience of an old man—that the practice of the law of England was founded on sound and salutary principles. Let them go on, acting on the rules established by their ancestors; for it was better to acquit ten thousand guilty persons, than to break down one known principle of law.

Earl *Grey* hoped, after what he had heard, that his noble friend on the cross-bench (lord Lauderdale) would no longer say that this was not a case of great difficulty; for, notwithstanding all the time which had been occupied, and all that had been said in the course of the discussion, he had not yet heard a satisfactory solution of it. It had been said by the learned lord on the woolsack, that this was a difficulty which the House should not hesitate to look at, and to grapple with; and that in obviating it, they should take that course which would be the least deviation from established rules. To this principle he most readily agreed. Their lordships, however, should recollect, that they were sitting on a new case—a proceeding involving not only facts, but considerations of policy, that placed them under the necessity either of adopting a course that would violate the established rules of justice, or of doing fundamental injustice to the party accused. It was in this view of the difficulties with which the case was beset, that he thought it might be better not to proceed further in the present course, but to send the case back to be tried by those other rules from which he was sorry they had ever departed. He believed, indeed, that, according to the ordinary rules of courts of justice, the liberty now claimed would be allowed to

counsel, and he had also understood it to be their lordships intention on Saturday last to grant it. His understanding then was, that in consideration of the vague and indefinite nature of the charges, and of the peculiar circumstances attending this inquiry, certain powers should be vested in the counsel for her majesty. The question therefore now was, whether, after they had held out such a promise, and that counsel had indulged a confident hope of being permitted to resume a cross-examination at a future period, they would now so limit and restrict them as to withdraw a privilege which they deemed essential to the interests of their client. The least which their lordships could do was, in his opinion, to hear the arguments of counsel upon the point. It seemed to him to be due both in justice and in propriety: and, in recalling their attention to the peculiar nature of the case, he did not think it necessary to enter into all the reasonings of the noble and learned lord. When their lordships refused to concur with the motion of his noble and learned friend (lord Erskine)—a motion the wisdom and justice of which were made more manifest by every day's experience—he had distinctly understood, that in refusing a list of witnesses and a specification of charges, they contemplated the allowance of some equivalent advantages. This course appeared to him absolutely necessary, if they desired to frame their proceedings upon any of the rules or principles adopted in other places, or observed upon ordinary inquiries. Was any example to be found in a court of record of a person standing almost in the situation of a criminal, and deprived of the means of bringing evidence to contradict the testimony of witnesses on the other side? Were the counsel for an individual so placed ever denied the opportunity of adducing what they might think requisite for the establishment of their defence? He did not wish to set his private judgment against the general opinion of the House; but when he heard it contended, that there was no precedent or analogy to justify the course now proposed, he must observe, that it was obvious why there was none. Here was the case of an illustrious person, threatened with no less a punishment than degradation from her rank and station, and charged with an offence which was substantially high treason. But if put upon her trial in that form, and for that alleged offence, she would be entitled by law to a specification of charges, to a list of witnesses, and to a full opportunity of defeating or overthrowing the evidence against her. Let their lordships again look at the question in the light of its analogy with the law of divorce in this country. It had been laid down by the highest legal authorities, that an act of adultery committed by a Queen consort with a foreigner, was not high treason under the statute of Edward 3rd; and it might therefore be of importance to advert to the ordinary rules and process of the ecclesiastical courts. He believed that in those courts the Queen would have rights and privileges equal in effect to those who were under an accusation of high treason. She would be entitled to a copy of the libel which contained the distinct charge against her; to time for preparing interrogatories, extending sometimes to the period of a year; and on the introduction of new matter, would be allowed to counterplead. There was, then, surely nothing extraordinary in the application of counsel to have the same real and effectual advantages afforded to them in the preparation of their defence, as they would have had in a proceeding conducted upon ordinary rules. In point of fact, he believed their lordships had declared, when they refused a list of witnesses, that they would grant some equivalent advantage. It had been said by the noble earl (Liverpool), that there was no precedent, upon a bill of pains and penalties, of granting a list of witnesses, or a particular statement of charges; but it would be found in the case of the duchess of Norfolk, which, like this, was an application for divorce without the aid or instrumentality of the ecclesiastical courts, that lists and specifications were granted, one after the other, at the suggestion of counsel. As this was a peculiar case, and taken out of the ordinary course of proceeding, it seemed to him but just to extend advantages equivalent, if not similar, to those which the law had provided for persons labouring under accusations of this nature. It was well known that on every common occasion counsel had the means of a preliminary investigation into the character and condition of witnesses on the opposite side; and therefore, without arraigning any decision to which they had previously come, he would implore them to consider well before they withdrew so important a privilege as that claimed by

the learned counsel for her majesty the Queen. They ought to be in the same situation as they would have been if this process had been conducted on the rules observed in our ordinary courts of judicature. They ought, on behalf of their illustrious client, to have the benefit of the ordinary principles of law; for none of their lordships could imagine that a cross-examination could be so effectual as it ought to be where there was no previous knowledge of the character of a witness. Their lordships had already decided that the witnesses should be subject to the liability of being called a second time, and he could not, upon the general principles of cross-examination, acknowledge the distinction of his noble friend (lord Lauderdale), that it might be conducted in two modes with the same effect, and that the witness's testimony might be overthrown at the moment, or by the subsequent production of evidence to his discredit. It was obvious, he conceived, that certain points could only be satisfactorily cleared up by an immediate and consecutive inquiry; and if there was any disadvantage in the delay now applied for, their lordships had brought it on themselves by their former resolution. But, in addition to the principle of the Queen's just right to common advantages, in his apprehension their lordships were bound and pledged to admit it by the sense and plain meaning of their own repeated declarations. It seemed to him that there was but one of three courses which they could now consistently pursue. The first of these, and what, in his opinion, was the most advisable, but which he should not then stop to recommend, was, to drop the whole proceedings; the second, to revise that part of it by which they had withheld a list of witnesses, and a specification of the charges; and the third, to acquiesce in the application now made by her majesty's counsel. The effect of the last regulation would be, to reserve to those counsel an opportunity of resuming their cross-examination at a future stage of this proceeding. No doubt this would be productive of inconvenience; he could easily understand that it might lead to an accumulation of evils and of difficulties; but it was much better to submit to them than to violate the first principles of justice; it was the consequence of their own proceeding, and if they now shrank from meeting it, he greatly feared that a wound would be inflicted on their character from which they would find it difficult or impossible to recover. He agreed with his noble friend that public opinion ought not to be mistaken for popular clamour; and the question now was, whether, the House having suffered in public opinion (and of that fact he entertained no doubt), they would produce a yet greater and more unfavourable influence on that opinion by refusing to yield to the present application. In his view, they had held out a promise to her majesty's counsel of advantages substantially similar to the one now claimed, and they were at least under an obligation to hear counsel state in what way the refusal would operate injuriously to the interests of their client.

Lord *Grenville* observed, that the House appeared to him to have already adopted two courses diametrically opposite to each other. Being one of those who were present in consequence of their lordships' order, it was painful to him to express such an opinion on the nature of their proceeding. He did not think, however, that their future course ought to be regulated by any understanding or engagement implied in the minds of individual peers. Their rules ought to be distinctly expressed, and not left as matter of opinion or belief. In his view their proceeding on Saturday last was in manifest contradiction to the principle which they had originally laid down. Counsel had been allowed to renew and complete a cross-examination after a re-examination had taken place; and if they were now to state that new circumstances had arisen into which it was most important farther to inquire, he was sure that in every court of justice, upon a statement so made, such an application would be acceded to, and the Queen be allowed to defend herself against a charge of this nature by the amplest and most unlimited means of adducing new facts in opposition to the evidence. At all events, justice should be done, and no rule could be proper for their adoption which would in effect go to the exclusion of important evidence. The question now was, after the course which they had pursued on Saturday, not whether they would enlarge, but whether they would limit, the powers of counsel. He was not in his place when the last question was put by the learned counsel, but he believed it to have been perfectly regular, and in the usual course of a cross-examination. The House had in-

terfered by a proceeding which went to restrain the ordinary rights of counsel. In his opinion, therefore, the most advisable step would be to recur to their original rule, and set themselves as soon as possible clear in public opinion. The true course was, he conceived, to allow counsel to continue their cross-examination as far as they were able, and leave it open to them to recall the witnesses if any new facts required elucidation. This course he had understood them to have approved and sanctioned *unâ voce* at the very commencement of this inquiry. As he did not think they could now abandon the inquiry without a desertion of their duty, the establishment of this first rule seemed to him highly important. He agreed at the same time with his noble friend, that if counsel considered such a rule to be injurious to the cause of their client, they ought to be heard in objection to it. Counsel were certainly not to dictate to them the rules of their proceedings, but they should be enabled, in that high court of parliament, to state all which they might regard as conducive or essential to the ends of justice.

The Earl of *Liverpool* conceived that the noble earl (Grey) had not correctly stated the understanding of the House on Saturday. It was true that their lordships had promised advantages to her majesty's counsel equivalent to a list of witnesses and a specification of charges. They were to be at liberty to recall the witnesses, and to examine them as to new facts, but not to suspend a cross-examination after it had actually begun. No disposition had been indicated to depart from the rule as originally laid down.

Earl *Grey* observed, that he was not present when the rule alluded to was adopted, but he had a distinct recollection that their lordships had undertaken to afford to the Queen every advantage in some way which she could have derived from a specification of the charges. This was his impression, and he had understood, whilst the first witness, Theodore Majocchi, was under examination, that counsel were to make their election of then finishing their cross-examination, or of afterwards resuming it. Counsel must otherwise, in a case circumstanced like the present, be placed under the disadvantage of examining witnesses of whom they knew nothing, and of drawing from an adverse what they might possibly prove by friendly and willing evidence. The best course would be, to state the rule on which they proposed to act in future, and to hear counsel on the subject of that rule.

After some farther conversation, the counsel were called in, and informed, that the order which the House made on Saturday, calling upon the counsel against the bill to state "whether they were desirous of proposing any and what departure in these proceedings from the usual course of cross-examination, and informing them, that they were at liberty to be heard in support of that which they might propose, and that the counsel in support of the bill should be heard, if they desired, in objection to such proposal," was discharged.—And they were further informed that, "it having been proposed to withdraw the permission to her majesty's counsel, of reserving their cross-examination, and to direct that they should proceed in their cross-examination in the usual course, but with a full claim, on circumstances or facts not now known to them coming to their knowledge, by leave of the House, to call back those witnesses for further cross-examination," if they were desirous of being heard as counsel for the interests of her majesty against this proposed mode of proceeding in cross-examination, the House would be ready to hear them.

Mr. *Brougham* addressed their lordships. He begged leave to state the very great difficulty he felt, on the part of her majesty, when called upon to address their lordships on this point. He should feel it much easier to object to the course prescribed by their lordships than to point out any other course. First of all, their lordships would suffer him to remind them that the difficulty was none of their (the counsels') making. If any difficulties, be they numerous or be they few; if any obstacles, be they less or be they greater in their nature, presented themselves to their lordships, none of them were his. The party patronizing the bill had indeed urged, that it was more for his interest to proceed by this bill; they (her Majesty's counsel) on their part and on her part had objected. Although it seemed good to the wisdom and justice of their lordships to reject the course pointed out by her majesty's counsel, and to adopt that pointed out on the other side, if a difficulty had now arisen, her majesty's counsel might say that it had arisen from rejecting their

proposal and adopting that of the other side. It was a sufficient reason which he urged, which any man in his situation would urge, why extraordinary indulgence should be extended to him, that he and his learned friends who were with him had been thwarted in their petitions, hampered in their course of proceedings, never gratified in any one object, and that all the difficulties which were complained of, and which he might say his learned friend on the other side now complained of, arose, not from any refusal to the other side, but from having their wishes gratified. Even to the very last act of this great national drama, every objection urged by them had been resisted by their lordships, and they had now decided, they (her majesty's counsel) not having been heard. He was not ready to propose another course. They were offered a situation not only perfectly different from that in which they had stood last Saturday, after they had been put to their election, and had made their election, but in a situation not so good—in a much worse situation than that in which they had stood from the beginning till eleven o'clock on Saturday last. Upon every point formerly arising as to the course of proceeding they had not been heard at all. Upon the petition presented against the course adopted it had been decided against them that they were not to be heard. Upon the second step, upon what he deemed much more valuable, upon what he deemed not an extraordinary claim, but what he deemed the privilege of every party in every suit—in every private suit between A and B, and in every criminal prosecution—he meant the specification of the places where the alleged acts were committed, and the times, within a reasonable certainty and a reasonable latitude—a specification which was given in every case, not only of high treason (for the analogy there went only to the list of witnesses), but in every case, the county was specified.

Upon this second point, they had been refused, and without being heard. They were referred, such was the specification of the charge to three out of the four quarters of the globe. It was not in Middlesex or in Durham that the offence was charged to have been committed, but the charge extended over Europe, Asia, and Africa; over countries, cities, or villages; over provinces, kingdoms, or empires; inhabited or uninhabited; wilderness, seas, rivers, towns, or cities in all this variety of countries. This was their peculiar situation. It was peculiar that there was no *venue* in this case; because in every case the *venue* was an essential particular. This defect was of peculiar weight, and occasioned peculiar difficulty in the defence, when no offence at all had been committed. If her majesty had sinned any where, she might have some suspicion of the place to be charged, and by consequence, some anticipation of the sort of evidence to be adduced to support it. But because she was not guilty, and had not been, for aught that might appear in evidence, in the places where she was thus innocent, she could not conceive the places of the alleged offence, or the persons in those places who should give evidence. This second essential point their lordships had decided against them without hearing them. In this manner their lordships had decided that they should proceed with the trial of her majesty under what he must bring his organs of speech to call, a bill of Pains and Penalties. Their lordships had decided that this mode of proceeding was of right and necessity, which they—he would not say considered of wrong and unnecessary —but which they denied to be of right and necessity. A compensation, he had thought, had been offered to them, for all those disadvantages, and it did appear to them, humbly endeavouring to accomplish their duty, according to the orders of their lordships (but they were now more than ever sensible of their utter inability to understand the orders of their lordships), they did venture to hope that they had attained to the meaning of their lordships' orders, and they conceived, that in their peculiar situation, not of their own seeking, but of their lordships' making, some advantages were to be allowed them to meet the peculiarity of difficulties which their lordships in their wisdom had devised. They conceived, that to meet the peculiar difficulty, another peculiarity was ordained by their lordships as an advantage that might compensate in some measure for the disadvantage. They little thought, that when this advantage came to be sifted, it would be found simply the common advantage which every defendant enjoyed as a clear, absolute, indisputable right; which every party, as well as every defendant, was invariably allowed. They little thought, that when they had recovered from the two refusals which he had

mentioned, and from which they had recovered only by that which alone had induced them to make themselves parties to this proceeding; they little thought, that all was to be taken away again, and that they were to hear their lordships say to them, "You have no advantage; true it is that your situation is peculiar in point of hardship, but for that very reason you shall have no peculiar advantage. The mischief is new, extraordinary, and unparalleled. The more innocent your client is, the less able must she be to make a defence. But no novel advantage must be given you to resist the extraordinary pressure. Whenever you claim an extraordinary remedy, then we tie ourselves down by forms—then we refer to the proceedings in courts of law—then we quote the practice at *nisi prius* and in the Old Bailey, and we give you nothing but what is the right of every defendant in every action and in every prosecution." Their lordships had created the peculiar difficulty, and they were therefore bound to afford a peculiar remedy. If the bill was unparalleled, if the proceeding against the illustrious defendant was without parallel with respect to the facts, or details, or principle, in any one judicial proceeding in the world, then was it equally unparalleled, to deny the relief required by the extraordinary nature of the mischief, which in their minds was, up to the present hour unparalleled. In the case of the duke of Norfolk, the noble defendant (the duchess) had every advantage given to her by their lordships which she could desire. It was not true, that she had only a list of the witnesses; it was not true, that she had only the places and times specified. She had objected to the vagueness of charges embracing seven places and parishes and five months, and asked to have the months applied to the parishes; and their lordships had allowed that; and ordered the month and the place of every act of adultery to be specified, and a second amended particular to be given in for this purpose. Thus it was in August at Windsor, in September at St. Margaret's, in October some other parish, &c. Four days had been allowed afterwards to prepare for meeting those charges, so that she could go to Windsor, and to the other places, in order to obtain evidence. This was not all; it was not true, that this was all she had been allowed. He should rest his argument upon the case of the duke of Norfolk in 1691. He could refer to that case for a sanction to all he claimed on Saturday. The duchess's proctor attended their lordships; they were aware that the proctor was a solicitor in Doctors' Commons. He would mention, as it was material to the understanding of this point, the order of proceeding, as he found it in their journals. On the 14th of January, 1691, the order was made for the particulars of person, time, and place. On the 16th, the specification was given in. On the 19th, the objection was made to its generality. On the 23rd, the witnesses for the duke were brought to the bar, and two whole pages of their lordships journals contained no other matter, but this examination *in initialibus*, to use a civil law expression. The examination extended to names, marriage, abode, &c. The proctor stood in the very situation in which he (Mr. Brougham) had stood last Saturday; and he was allowed to examine in the precise terms in which he had proposed to examine on Saturday. He cross-examined thus: "Did you serve any other master before your present master? When did you leave him?" He would implore their lordships' attention to what had been their practice in the case to which he alluded. All these minute particularizations their lordships upon their journals would be found to have allowed in the case to which he alluded; and yet, notwithstanding the most extraordinary detail of apparently guilty facts—three or four witnesses indeed spoke in their examination in chief to the fact of finding the duchess actually in bed with her paramour, and another spoke of what had occurred in terms too revolting to delicacy for him to repeat—yet notwithstanding all these proofs and circumstances, a few questions in cross-examination had had such an effect as to induce their lordships to throw out the bill. The case to which he alluded was one where proof to ocular demonstration was tendered and taken, and yet the bill was rendered a nullity by the cross-examination of the witnesses.

So much for the case of the duchess of Norfolk in 1691; in which (said Mr. Brougham) allow me to observe, that three or four witnesses upon the examination in chief swore directly to the fact of adultery. One swore to having seen the parties in bed together, another to having seen the duchess come out of the bed in which the supposed adulterer was lying, and ano-

ther to having caught the parties in the fact in a room at Windsor. In short, the evidence opened such scenes of horrible indelicacy that I cannot venture even to allude to them, and the circumstances were detailed with a minuteness and particularity which I do not remember to have seen in any other case of this description, for almost every thing was proved by ocular demonstration. Notwithstanding these depositions, however, so material was the cross-examination, not one question of which would have been put if the duchess had not been allowed a specification of particulars, that in consequence of this cross-examination the witnesses were all three discredited, and your lordships were pleased to throw out the bill.—My lords, I do not anticipate any remarks upon the evidence in this case, for to do so in the present stage of the proceedings, I should consider irregular, unjust, indecent. If any one had set me such an example, I should conceive it to be an example more honoured in the breach than in the observance. Of course no judge could have set the example, no person who may ever by possibility be called upon hereafter to decide upon his honour on the guilt or innocence of the accused, could have set so monstrous an example of indecorum; but if he had, I should have abstained from following it from motives of common decency. I mention this circumstance for the sake of showing how important, in the case of the duchess of Norfolk, was your lordships' adherence to the rule you had laid down, and which on Saturday last you appeared to have repeated in the spirit, though not in the letter, and which to-day I am called upon to say, whether I approve the violation of or not.

My lords, the sum of what I have to submit to your lordships is, that you are now retracting the extraordinary advantage which you promised us in the outset of these proceedings, and that we are now to be placed in the same situation as any ordinary party, though we have been placed in a totally different situation from all ordinary cases, with respect to the disadvantage of not being prepared for our defence. My lords, what a monstrous injustice it is—what a monstrous and crying injustice, to pretend to found your proceedings upon the practice of courts of law, in which the cross-examination immediately follows the examination, without remembering (what it is so extremely convenient to forget) that in courts of law the accused who enters upon his defence *instanter* knows the time, that he knows the place, that he knows the specific venue in which the offence with which he is charged is alleged to have been committed. Such is the way in which the courts of law are quoted by your lordships—such are the analogies by which your lordships would justify the course by which your lordships intend to supersede your own rules. If your lordships are desirous of applying to your proceedings the rules of the common law, for God's sake apply them. I ask for nothing more—I desire nothing better; but do not, my lords, adhere to those rules only when they fetter the Queen, and absolve yourselves from them whenever they operate to her advantage.—I am told, however, that we do enjoy an extraordinary advantage not conceded in ordinary cases, namely, that when the whole of the case is gone through, we shall have two months allowed us to prepare for our defence. I wish I could take comfort from this supposed extraordinary advantage. To me it appears to have quite an opposite effect. In an ordinary proceeding, does the examination in chief go on without any cross-examination at all? In an ordinary case, does the examination, do all the details founded upon the evidence, such as it may be, go abroad unsifted, and unchecked by examination, to prejudice the minds of the judges from day to day, or with such convenient adjournments as may afford them an opportunity of digesting the proceedings? Do they go forth to the public liable to gross misrepresentations? As for example, it is stated, in a paper of Saturday, that when the witness Barbara Kress came to that part of her testimony which established the fact of adultery, she was stopped by her majesty's attorney-general; this being a gross falsehood, and, I have no doubt, a deliberate untruth, told for a bad purpose. Are ordinary proceedings exposed to the weight of such foul, malignant misrepresentations?—misrepresentations the more dangerous and the more fatal, because it is not pure fiction, but falsehood mixed up with and fitted to truth, for the purpose of detraction. This is one of the peculiarities in which we are placed, and which ought to operate as a reason against your lordships only allowing us the ordinary advantages which all persons have a right to

claim. But, my lords, I will proceed a little more into detail, to show the absolute nullity of this extraordinary benefit as it is called. Many of your lordships, I doubt not, esteem it an advantage, merely from not knowing the rule of law. I will now state to your lordships what the rule of law is, and if I state it incorrectly, I desire to be interrupted. Suppose a witness goes through a fair examination, and that I have no materials for cross-examination, having never seen the witness before, and his very existence being unknown to me. To tell me that I may cross-examine this witness would be only to extract from me an humble acknowledgment to your lordships for what I not only do not accept, but what I have not the means of accepting. This witness goes out for two months uncontradicted. I do not complain of the delay arising from distance; that is an inconvenience which falls equally upon both sides. If your lordships had granted a delay of two months in the first instance, instead of two months to be consumed in inquiries after half the case has been heard, you would have avoided all those difficulties in which you now find yourselves placed. If a specification of particulars had then been granted, I should have been able at once to cross-examine the witnesses, and I should have had no right whatever to ask for delay. It is from the refusal of your lordships to grant this specification that all the difficulty arises. It is very easy for your lordships to say, "do as in courts of justice, where, as soon as the plaintiff's case is concluded, the other party immediately enters upon his defence." Some of your lordships have even said, that it is a great evil if the defence is postponed in ordinary cases for a single day. But they who made such an observation are evidently ignorant, that there is one previous ceremony called a declaration in civil, and an indictment or information in criminal cases, which, together with their adjuncts, put the defendant or accused in possession of that previous information which we craved from your lordships' justice. To some of your lordships this may appear quite extraordinary, that a man should not be called upon to answer for his life without any previous information, but such is the fact. The law being less wise, or our ancestors less lawyer-like, than some of your lordships, no man can be put upon his trial without having some guess at the nature of the offence with which he is charged, and the character of the witnesses who are to support it. In a common law proceeding, therefore, a man is called upon to enter upon his defence without any unfairness or breach of justice, because it is his own fault if he is not prepared. One word more upon this cross-examination. Do noble lords really believe there is such inherent virtue in a counsel—do they imagine there is such magic in his dress, or even in his education, or the professional habits he may have acquired, that the moment a witness has been examined at your lordships bar, he may be called upon and ought to be prepared to cross-examine him? I think very few of your lordships can have fallen into so gross an error; but I am afraid that many of your lordships, some of whom I know to be most enlightened, just, and honourable men, have fallen into some mistake with respect to the supposed advantage of this extraordinary delay. I shall now, therefore, proceed to show, that this extraordinary delay is of no use whatever. In the first place, the publication of these proceedings is calculated to poison the public mind, and the judges in this case, who are mixed with that public, must be more or less influenced by it. In the next place, let me put a case. Suppose, in the course of the next three or four weeks, that I come to the knowledge of any circumstances, the effect of which would be completely to destroy the testimony of a witness who has been examined; for example, that he has received a sum of money upon condition of swearing against the Queen, nay, farther, that the conviction of the Queen is a condition precedent to the payment of the money: it may surprise persons unacquainted with the rules of law, it may appear extraordinary to lay lords, though learned lords are of course aware of what I am about to state, that though I have ten witnesses to prove this atrocious case of bribery, I should be unable to offer any one of these witnesses, unless I had previously cross-examined the perjured witness to this fact, unless I had previously asked him, whether he had received such and such sums of money. If I had asked this, and the witness had denied it, I should in that case, and only in that case, be entitled to call evidence to prove the fact. It may be said, that such a case as I have put would fall within your lordships' rule, and that your lordships would

allow me to call these witnesses, notwithstanding any technical omission. But only think, my lords, how numberless are the circumstances, by which the testimony of a witness may be impeached, besides the extreme case which I have just put. Counter-declarations form a large class, and it is of the utmost importance that questions should be put eliciting such counter-declarations, such as "Have you ever stated such facts at any other time?" It is barely possible that the ordinary courts of law would permit a relaxation of the general rule in the monstrous case which I before put; but I am now putting cases which indubitably fall within the strict rule of law. If I had a clue to the witnesses, I might show that A. B. had 50 times said things utterly inconsistent with his present testimony. Not one of these things could I tender to your lordships, unless I had previously cross-examined A. B. to those particular points. But your lordships, it may be said, will permit me to call evidence, if I can lay a ground before your lordships for eliciting those counter-declarations. Will any man, who has ever witnessed the course of a cross-examination, resort to such an argument as this? How many counter-declarations, how many unexpected points of the utmost importance are elicited from a witness in the course of a sifting, parole cross-examination! I feel my way—I put a question, which does not answer, and I abandon it—I put another, which succeeds, and I pursue it. But if I am to be tied down by your lordships' rules—if I am not allowed to produce witnesses for cross-examination, though I may have received the most important information, I am, in effect, deprived of all the benefits of a cross-examination. Were I to proceed to call these witnesses, I apprehend the attorney-general would be ready enough to interpose; for though he appears here for nobody, it has happened, with marvellous uniformity, that all the learned gentleman's observations have been as regularly against me and against the Queen, as if he had appeared here in a more definite capacity. My lords, I am free to say, that since courts of justice have been filled with just judges, and with bold and intelligent counsel, such difficulties have never been imposed upon the party accused. My lords, it is a mere mockery to call the course to which your lordships would restrict us, a cross-examination. I am first to lay a ground before your lordships; your lordships are then to judge of its sufficiency; and if your lordships' decision should be favourable, I am then to be permitted to put a few questions through your lordships. This is *ex gratia*, by favour and permission of your lordships—a permission which I should disdain to receive as such in any court of justice to which your lordships appeal for analogies. I should claim it as a right; and there is no judge who would not grant it as a right, and not as a favour. Now, my lords, upon these grounds, I humbly submit to your lordships—that our astonishment is equal to our disappointment, when after all the promises which your lordships made, after all the hopes which your lordships held out to us some weeks ago, your lordships now tell us, that these hopes, raised by yourselves, are to be annulled, that they are to be dashed away from our lips, and that we are now to have no more, or rather infinitely less, advantages than in an ordinary case. Your lordships think fit, under these new and extraordinary circumstances, to compel us to go on, to sit in this place, and hear witness after witness examined upon points of which we cannot form even a conjecture, respecting conduct all over the globe, for six or seven years. Here we are to sit, and grace with our corporal presence the solemnity of your lordships' proceedings; at least your lordships will allow us to pause a little, after you shall come to this ill-omened resolution—and probably allow us to revise our resolution—that resolution which first brought us here to assist at those proceedings at all.

My lords; I have already said, that I have been called upon to show the objections which exist against your lordships' rule rather than to point out affirmatively any other mode of proceeding. Indeed, it is much easier to do the one than to indicate the other. We are sensible of the disadvantages under which we have laboured from the very outset of these proceedings; but notwithstanding these disadvantages, we have endeavoured to the best of our power to perform our duty. We relied upon your lordships' promises, and we are astonished and staggered, to find, that instead of fulfilling those promises, your lordships now propose to rescind them. Before I conclude, I think it right to correct a material mistake with respect to what passed when the witness Majocchi was called up the

second time. I am supposed to have pledged myself on that occasion not to cross-examine that witness a second time. It is so stated upon your lordships' Minutes, and I suppose I can aver nothing against the record. At the same time it is so utterly inconsistent with all the observations I have made upon this subject, that your lordships will allow me to state what I did say on that occasion. I admitted the irregularity of calling Majoochi back during the examination of another witness, and I pledged myself not to repeat that irregularity until the case had been opened; but your lordships will be pleased to recollect, that I did not wave the liberty of cross-examining him a second time. I ought to apologise to your lordships for having occupied so considerable a portion of your time, but I assure your lordships that I should not have done so had I not thought it absolutely necessary that your lordships should hear what we had to urge, before you plunge yourselves into the course now in contemplation.

Mr. *Denman.*—Nothing, my lords, could tempt me to trespass upon your lordships attention, after the able argument you have just heard, but my deep sense of the extreme importance of that question which your lordships indulgence—I will so call it—upon this subject, has submitted to the consideration of her majesty's counsel—a compliment for which, personally, I will take leave, in the name of my learned friends and myself, to express our high gratitude for the confidence which that kindness implies, while, at the same time, I protest, as counsel for the illustrious accused, against a course which must make her legitimate defenders parties to the injustice of which she complains, and deprive her, in the result of that inquiry, of the effectual means of defending herself against all the modes that might be practised against her, in the course of this long, harassing, and overwhelming investigation. My lords; there is no security for her majesty the Queen—there is no security for the meanest subject in the realm—there is no security for any one of this august assembly, who now sit as judges upon the first of their fellow subjects, but may hereafter stand accused at a bar of criminal justice, without that important right which now, on the behalf of the Queen, we are endeavouring to vindicate from limitations and restrictions, which reduce it to a mockery and a name. My lords; it is upon that right of cross-examination—a free, full, unshackled, unrestrained cross-examination—that the existence as well as the character and property of every man who hears me must depend. For if counsel are to be prevented from entering, in the fullest possible manner, into all the means and all the topics of sifting the evidence that may be brought against the accused, not technically at one particular period, nor judicially in one particular mode, but really and substantially according to the truth and justice of the case, whenever the advocate is furnished with the means of cross-examination—then, I say, that the character and life of every man are at the absolute mercy of every perjured and suborned wretch, who may venture to come and swear against him in a court of justice.

My lords; it is not upon technical difficulties or nice distinctions, or lawyer-like arguments, that I am founding the important claim I now set up. Every one of your lordships is equally judge upon a subject of this immense importance, which goes so vitally to the interests of you all. I therefore resist all notions of authority, except indeed as that authority shall have been cited upon the present occasion—go decisively to show, how much the course has hitherto been mistaken—and hold out a warning which I trust will not be lost upon any member of this illustrious assembly, how they proceed hereafter rashly to lay down rules from which they may instantly depart, at the instance of those who may find themselves obstructed in their wishes and purposes by those rules—how they adopt resolutions one day, which they may find it necessary to rescind upon another—and, above all, how with the name of substantial justice upon their lips, they proceed to strip naked the unfortunate accused of all the means of repelling the attack, or defending himself against it. Therefore, my lords, I take the liberty of asking you, not as judges, bound by the strict rules of legal proceedings, but as men of cultivated minds and of the highest principles of sound sense—what is the situation of the party who is brought into court under the charge, which the witness appears against him to support? Must he not inquire who that witness is? Is not the first of all his rights a right to know who the individual is that has come

to depose against him? And so much is that absolute necessity felt in the case of high-treason, where the safety of the state is compromised, and the interests of all are concerned, that, to prevent the individual accused by the government from being crushed by any incorrect practices whatever, the law has in that single instance departed from all the rules adopted in every other, and given the individual a right to have for a considerable period before the trial, a list of all the witnesses to be called against him, their place of abode, their previous history depending upon the situation they filled at that time in the world. And not only is that list of witnesses furnished, but that most extraordinary addition is added, that no witness shall be called in the course of that trial unless the name of the party so to be called should appear upon that list of witnesses —a provision, my lords, which may possibly lead to consequences the most absurd; because if a perjured defence is set up, which may be met by fresh witnesses and shown to be false, the Crown must be bound by the evidence they have already given, and is prevented from rebutting the falsehood by the truth of other witnesses. But however inconvenient that consequence, it has been found to be a far less inconvenience to take the risk of such perjury even succeeding for the want of the means of calling fresh witnesses, than the inconvenience of allowing the party prosecuted at the suit of the state to be taken for one moment by surprise, or to have his life and his blood affected, by the evidence of an individual into whose character he had not an opportunity of inquiring.

My lords; I wave all observations upon ordinary cases; but it would be the merest mockery of a common understanding to say, that there ever is, in the ordinary administration of justice in England, a case in which a party accused does not come into court with a knowledge of a great part of the case to be made out against him, and with a knowledge, to a great degree, of the witnesses by whom the facts are to be proved; but if any of your lordships can be accused of practices committed in a foreign country, in Egypt, in Greece; or if any one of your lordships' relations who may now be travelling in foreign parts, was to be brought by a foul conspiracy to account for crimes at which human nature revolts, how would he be prepared to meet the evidence? There would be but one mode; and that mode is, the cross-examination of the witnesses;—and this may, and must, and does, in every case, involve a great variety of considerations. In the first place—I agree, indeed, the moment when the witness leaves the bar is a moment when he may be most conveniently cross-examined—what is the first object with which I cross-examine him—has he contradicted himself, has he told a story, upon the face of it false?—I am prepared at the moment to contradict him. I am standing upon ground from which justice cannot remove me;—I have a right to cross-examine him to all those points:—but farther, I have my client by my side;—if I ask whether that is false or true, and my client says, it is false from beginning to end;—I know nothing of the witness, but I want farther time to inquire into the character of the witness;—and am I to be deprived of the opportunity, because he happens to have left the bar of the court, if I am able to prove in the course of the summing up of the judge, or after the jury have retired, that this man has been previously convicted of a capital offence? Will any man tell me that any power on earth should prevent me from bringing forward that defence, and showing that he is a man so charged? I say, if there be any power which can deprive an advocate of such a right, it is a power which ought instantly to be annulled and annihilated. I therefore claim, in the first place, the right to cross-examine upon the facts as they appear at the moment, and also to cross-examine upon any facts that may subsequently come to my knowledge.

My lords; what says the Order which we are now required by your lordships to discuss? If, indeed, facts respecting a witness do come to my knowledge at a subsequent time, I am to make an application to your lordships, and that application is granted—he may be called again. I am to make him my own witness, or pursue the cross-examination, and then I am to proceed with that cross-examination at a subsequent time. But, my lords, suppose I am acquainted with the facts now, and have not the means of proving them —suppose the facts actually existed—that we are pestered with imputations against the witness—that if she is the person she describes herself to be, she is loaded with infamy—if I am told a variety of particulars which I may not choose to repeat in cross-examination, is that a limitation

which I ought to have imposed upon me?

When your lordships consider that, you will not think they are, but they may be true, and yet I have not the means of acting upon them. They may go to the truth of the whole evidence, yet I say, as an advocate and a gentleman, without having full instruction upon that subject, I am not justified in putting a question to the witness; but I am to be prevented from availing myself of that information at a future period of the proceedings. And this, my lords, is a case in which we knew nothing of the charge until we came into court—in which the attorney-general has given us in his opening, the places, but has not named, in the course of that opening, one single witness to be called. Am I to be deprived of the opportunity of bringing my information to bear against the witness? If that should be the course of proceeding to be adopted by your lordships, I only hope, that this will be the single case to which such rules ever can apply—that, as we are sometimes laughed at for the uncertainty of law, and the uncertainty of judicial proceedings, this legislative rule will be confined to that single instance in which your lordships have thought it proper to proceed to the dethronement of the Queen of England.

My lords; there are other grounds of cross-examination;—what the party has said before, and solemnly sworn before—what motives they may have for making statements, and what they may have said upon former occasions. We know this is not the first time in which this illustrious person has been called upon to account for her conduct. The difference between them is, that then she was indeed encountered by a specific charge, which was rebutted and exposed; but, upon that occasion, one of the material modes of her self-defence, by which she established her innocence to the satisfaction of her father, her sovereign, and the country at large, without contradiction and doubt was, by contrasting the evidence sworn before the four commissioners with the depositions the witnesses had previously made. One of the applications I had the honour formerly to make to your lordships, and which, like all our others, was refused, and which is the only topic to which my learned friend has not adverted was, an application to be furnished with those unvouched and unsworn papers, upon which your lordships thought it proper to proceed upon this occasion. That application was distinctly made and not granted. If we had the means of examining those papers, and seeing in the first place who had put their names to these writings, and in the next place, what they had put their names to, it would indeed be a very material guide for our conduct upon a cross-examination of the witnesses; because, if it was found that one set of witnesses had deposed to these facts before what may be called the grand jury, and that another set had started from the ground since the advertisement was issued for calling in witnesses, and since the inquiry had commenced, that would be a most material fact; but if those who had deposed before without oath, to facts which were meant to annihilate the party charged, should come here and swear differently, either as to the extent of those facts, or the nature of them, that would be a mode of cross-examination which would establish the falsehood of the charge, in a manner perfectly adequate to prove the innocence of the accused.

My lords; we are deprived of that means of cross-examination. It is impossible not to see, that several of your lordships who sat upon that secret committee, have been putting questions to the witnesses, from some sources we have had no access to. We humbly entreat we may have that access, to make that essential comparison I have adverted to. If that be not done, it is the more necessary that all the other means of cross-examination should be preserved entire. If that be not done, I will venture to repeat, that the Queen is deprived of that most effectual mode of defending herself now, which upon the former occasion, enabled her majesty to confound her enemies and establish her innocence in the face of all mankind. My lords, we are called upon to discuss this Order of your lordships; we came prepared to discuss or give our humble answer to one of a different character. It is some satisfaction, that an Order of this description is not come to by your lordships, without hearing counsel; and I certainly may venture to say, with all the respect which I must undoubtedly feel for the high judicial authorities of the land, that their judgments are the most satisfactory to the public, and the best guides to the profession, when they proceed upon the arguments of both parties—one interested to support, and the other to attack the mode of proceeding

before their lordships; and, whatever respect I may show to judgments so given, I must take the liberty of saying, that where that argument is wanting, the judgment is far less satisfactory. But, upon the present occasion, it seems to be taken for granted, that we are to complain of this Order, that it is an Order favourable to the counsel who appear here on the part of the king, who complains before your lordships; and I am sure I do not know, unless the particular case arises, to which the rule may apply, whether it is the interest of one party or the other, to be heard for or against it. The situation is most anomalous and perplexing. We are here to defend the interest of our client; and when the question is put, it may be objected to for particular reasons;—we are to be prepared to object to it, or support the question by such arguments as occur to us. I never knew beforehand that we were so flattered—that counsel were called in to regulate the rule to be laid down by your lordships; and it would be vanity if we were to enter into any considerations that would induce your lordships to lay down that rule. But, generally speaking, I say, if we were deprived of the most full, ample, and complete rights of cross-examination at the moment at which we are possessed of any information necessary to throw light upon the case, and throw infamy—if infamy belongs—upon those who bring infamous charges—I say, better a thousand times for the interest of justice, our illustrious client, and the public, that we should at once withdraw from the inquiry, not withdrawing the solemn protest we have made, but feeling we should be only giving the appearance of a judicial and professional sanction, to proceedings in which no real justice could be done, and in which it would be too obvious, that the party accused is devoted to destruction, for reasons that, of course, I do not for a moment enter into; but that her destruction is vowed, and that the means of her defending herself are to be materially withdrawn from her. My lords, it would be with the most painful feelings that this course would be adopted; but the feelings we have would be much more painful;—our feelings would be much more dreadful—if we should continue under any such restriction. We protest against it from first to last. We claim the most full right of cross-examination of every witness brought against us. And we say, better that this inquiry should last all the summer months, for the next ten years, or be interminable, than that your lordships should proceed to inflict injustice, in consequence of a rule of your own adopting—that injustice which might become the means of destroying every one of your lordships, and not leave one subject in the realm possessed of his dearest interests. I again implore your lordships, before you lay down any such rule well to consider the consequences with which it is pregnant; and I am sure you will best consider your own honour, by adhering to those rules of justice, not bound up in technical forms, but resting upon the great principles of the unwritten law, found in the heart of all mankind,—which every cultivated mind acts upon, and which it is imposible for any man to sacrifice, without sacrificing his own interest in the social scheme of which he may happen to be a member.

The *Attorney General* said, that from the speeches of his learned friends,—any one ignorant of the nature of the question before their lordships, would suppose their lordships had under consideration the adoption of some rule in the present case, which was at variance with the practice hitherto adopted in all judicial proceedings, and in direct opposition to the known laws of the land. On the contrary, the real question was, not whether their lordships would depart from such a rule? but whether they would adhere to the established practice of ages, relaxing the rule in the present case, with a view to the benefit of the party accused? His learned friends had introduced many topics which bore no reference to the subject before the House; they had complained of the generality of the charges, and the refusal of the names of the witnesses, as grounds for requiring farther indulgence; but the topics on which they seized were calculated rather for declamatory display than for argument, and consequently could have no influence on their lordships' determination. He begged to remind his learned friends, that there was no indictable offence in which it was essential that time and place should be distinctly specified; for it was competent to the prosecutor to prove the fact, though committed at any time or place different from that which was originally stated. With respect to the demand for a list of the witnesses, the only criminal charge in which an accused party could claim that privilege was the charge of high treason; and he had

the authority of chief justice Foster against the policy of the law upon which the practice was founded even in such cases. That learned and acute lawyer expressed a hope, on the first introduction of the bill, that the legislature would see the impropriety of adopting it. And what was the fact, as experience had since proved? —The fact was, that it produced considerable inconvenience, even to the accused party. This would appear from a very plain statement. The list of witnesses was necessarily accumulated to a great extent on both sides, so that out of one hundred witnesses named in the list the case was generally proved by ten; so, that as justice Foster himself observed, the inconvenience was infinitely greater than the advantage, even to the accused party. His learned friend Mr. Brougham had stated, that in all civil proceedings the party could obtain information equivalent to a list of the witnesses, but in all cases of criminal conversation, which were much more analogous to the present proceeding, the prosecuting party might go over the whole world without supplying either the names of the witnesses, or the times and places where the acts were committed. Much had been said upon the case of the duke of Norfolk. He did not accuse his learned friend of a wish to mislead their lordships as to that particular case; but certainly he had misrepresented it altogether. The charge in the preamble of that bill was merely, that his wife had committed adultery without stating with whom, or naming the particulars of time or place. It then proceeded to enact a divorce. The period of time to which the charges referred was not, as had been stated, a period of five months, but of six years, and yet there was no specification. The acts were also committed in different places, and yet it did not appear from the State Trials to which he referred, that a list of witnesses had ever been granted. The case, therefore, so far from making out the case contended for by his learned friend, was, if any thing, an argument against him.—The attorney-general to the Queen had charged him with coming forward on the twelfth hour to ask their lordships for the adoption of a new rule. He did no such thing: all he asked was, that they should continue the same rule on which they had acted up to Saturday last, when his learned friend, coming at the twelfth hour, required an alteration. His learned friend Mr. Brougham had said, that his observations with respect to the examination of Majoochi had been mistaken. What he understood from his learned friend was this, that he had thus pledged himself to their lordships not to call Majoochi again, unless it should be absolutely necessary on the opening of the defence. But why did he (the attorney-general) state this? to show that his learned friend understood the rule at that time precisely in the way that he (the attorney-general) was contending for now? His learned friend, Mr. Denman, had claimed a departure from that rule, as a matter of right. He would deny that it was so. In the courts below, the judge would not refuse to put any questions that might be necessary after the cross-examination was closed; but would he consent to postpone the cross-examination, in order to enable the counsel to collect facts from time to time? Certainly not. It had been stated, that the evidence on the part of the bill going forth to the world without any contradiction, was a great evil. It might be a disadvantage; he did not deny it: but suppose their lordships were to yield to the proposition of his learned friends on the other side, what would be the consequence? The whole case must then be gone through on both sides, and after all the facts were sifted and examined the opposite counsel would claim the right of calling back the witnesses again, and renewing the cross-examination, after a considerable interval had elapsed. In that case, their lordships could hardly refuse the same privilege to the other parties; so that it would be in the end a disadvantage to the accused. They did not ask for a restriction of the cross-examination, but the other party called for an extension. Their lordships sat there to elicit the truth, without any view either to the Queen, or to those who supported the bill, and to see that the best rules should be established with that object alone. If they permitted the examination to proceed as his learned friends proposed, they would utterly reverse the rules established in all courts where questions affecting the lives and properties of men are determined. It was true that those rules were not binding on their lordships; but still they would recollect, that they contained the digested wisdom of our ancestors, and that experience had confirmed the propriety of their application.

Now, was there any instance in which a defendant in any one of those courts had got up and said, "This witness whom you have called against me is a man of whom I know nothing; I never saw him nor heard of him before; give me time, therefore; delay your proceedings until I have time to inquire whether he has not formely made declarations inconsistent with his present statement?" His learned frinds were now in a situation to examine the witnesses with respect to the facts to which they had sworn. But suppose his learned friends had not discovered any facts with respect to the witnesses, their lordships, by permitting the examination to go on, would act on the assumption that they had: in what a situation then, would they place the witness? For the inconvenience likely to attend such an arrangement, he would appeal to the proceedings of the House during the last week. Had not the most important information been elicited, by questions coming from their lordships at the moment, which would probably have been lost altogether, if any bar had existed to putting those questions at that particular time? All he requested was, that their lordships would proceed as they had begun. He did not propose to them on Saturday to alter the rule, but had addressed them under an apprehension that some new rule was likely to be adopted. He was alarmed at that prospect, because he felt, that so far from tending to elicit the truth, the adoption of the new rule would amount to an abandonment of all the rules and principles, so long and so wisely acted upon. It was with that view that he then addressed and was now addressing their lordships. They had already granted much to the opposite party, and he hoped they would not be induced by the threats insinuated at the close of his learned friend, Mr. Denman's speech, to lay down a rule which any of the judges would refuse to adopt in any other court in the kingdom.

The *Solicitor General* next addressed their lordships, for the purpose of supporting the allegations contained in the bill. He trusted that the House would permit him first to advert to some of the assertions of his learned friend the attorney general for the Queen. His colleague, as well as himself, had been charged by that learned gentleman as acting parties in the present proceedings. Had those charges been fated merely to meet the ear of their lordships, he should have considered a simple reference to the conduct of his learned friend the attorney general, and of himself, as sufficient to refute them; but as he knew, from the manner in which those charges had been made, that they were intended to operate in other quarters, he should briefly advert to what had passed. The learned attorney general and himself had been directed by the House, to lay before it the evidence in support of the bill. In so doing, he trusted they had acted with candour and with caution; they had laid the evidence up to the present point fully before the House; and had not, he trusted, in so doing, pressed any argument which their duty had not compelled them to press, or taken any course but such as had appeared, to their fallible judgments, the best calculated for the elucidation of the truth. The learned attorney-general for the Queen had complained of misrepresentation. There was no person living but must have observed that, if there had been misrepresentation abroad, false charges and calumnies, those calumnies had not been confined to one party; but had at least been equally shared by the side which the learned complainant represented. It was impossible, indeed, to take up a daily paper without finding it filled with the grossest libels against their lordships, against the conduct of the evidence, against the characters of the witnesses, and against every individual in any way connected with the present proceedings. When this charge had originally been brought forward, the learned counsel on the other side had suggested that time should be afforded to the Queen to meet and answer them. In consequence of that demand, time had been afforded, not before the commencement of the proceedings (though even then some time had elapsed)—but at a period far more advantageous to the defendant—at a period subsequent to the statement of the facts—after the evidence was before the House, and when the whole case of the prosecution was known to the Queen and to her legal advisers. In that most advantageous stage of the proceeding time had been granted to the Queen for collecting evidence to answer the charges against her, and to refute, if it admitted of refutation, the evidence which had been adduced in support of the bill. And yet the other side now came to complain that time had not also been allowed them to

collect materials for cross-examining the witnesses. To that application the House, upon consideration, would find it impossible to accede. He would refer to what had been so often stated in the course of the present proceeding, that although the august assembly which he had the honour of addressing was in the course of a legislative proceeding, it ought to act as if it was proceeding in a case of judicial inquiry. According to the language of lord Cowper, "Although the tribunal was in form legislative, yet, in substance, its character was judicial. The learned counsel on the other side had said, that it was impossible for them to proceed at present in the inquiry, because they had not been furnished with a list of the witnesses against them. He begged leave to state as a fact, not to be doubted or disputed, he stated with the most perfect confidence, that in no criminal proceeding whatever in the country, before any tribunal, was a party entitled to come forward and call for a list of the witnesses on the part of the prosecution. Such was the rule, not in common cases, but where the life of the accused was at stake. It was said, he was aware, that sometimes, incidentally, a knowledge, of the witnesses was obtained before the proceeding came to ultimate decision; but had it ever been contended in any tribunal that, because a witness of whom the accused knew nothing was adduced against him, the court was, therefore, to postpone the trial until the defendant should have inquired into the character of that witness, not merely for the purpose of contradicting, but of cross-examining him? It might be said, that when a person was charged upon a common indictment, the names of the witnesses appeared upon the back of the bill. They did; but the party accused had no right even to the inspection of the indictment until he stood arraigned upon his trial; and it could not fail to be in the knowlege of many of the noble lords whom he was addressing, that bills frequently were found by the grand jury, and the party, without the interval of a minute, was put upon his defence. The learned counsel who appeared on the part of her majesty were not contented, however, with complaining of the denial of a list of witnesses; they had urged that the prosecution had improperly failed to specify the time and place at which the acts were charged. In answer to that complaint, he begged leave to refer the House to the opening statement of his learned friend the attorney-general. That statement had informed the learned counsel on the other side, that the charge was a charge of a continued series of acts of adultery following the Queen wherever she went; so following her of necessity, because she was always accompanied by the same individual, always cohabiting with her. If, therefore the bill had stated the times and places at which the acts were charged, it must have included every place which her majesty had visited in the course of her voyage; it must have deposed to the whole period of time from her arrival at Naples up to the institution of the proceeding against her; and the necessary consequence of omitting such continued charge would have been, that if any witness could have spoken to an act of adultery committed in a place not set forth in the bill, that witness could not have been examined. The learned attorney-general of the Queen had stated, that in every civil as well as in every criminal case, the party accused was entitled to appear before the judge, and to demand a list of witnesses—

Mr. *Brougham*.—No such thing, I expressly limited it to civil cases, but said that an indictment gives a man an equal advantage.

The *Solicitor General* continued. He thought that the learned counsel was more completely mistaken upon that point, than even if he had contended for the practice in criminal proceedings. In the presence of almost all the law in the land, he denied that there was any such rule; but the learned counsel on the other side introduced every thing, founded or unfounded, for the purpose of making out, if possible, something like a plausible case before the House. After these mis-statements by the Queen's attorney-general, in which, however, he was not supported by his learned co-adjutor, their lordships would know what reliance in future to place upon statements so broadly made, when upon investigation they turned out to be so utterly unsupported. It was said, that the other side could not cross-examine, Why not? To put the case of Saturday, why could not that witness be cross-examined? She swore that the Queen was present at all the times of which she spoke; and could not the counsel consult their illustrious client, and obtain all the information necessary for cross-examination? Cross-examination

ought not to be confounded with contradiction; to contradict a witness others must be called; but if a witness had previously given a different account of a transaction, and that fact should be discovered after the cross-examination had closed, he could not be contradicted on the subject unless he had been questioned regarding it. If a witness on the other side should commit any apparent contradiction, undoubtedly the counsel in support of the bill would not imitate the insinuations thrown out by the Queen's attorney-general—too palpable to impose upon any man. No direct attack had been made upon the witness of Saturday; but dark hints and obscure allusions were thrown out to indicate what could be proved, were an opportunity afforded.

He would now turn the attention of their lordships to what would be the effect of granting the prayer that had been made. In the course of this inquiry all had had occasion to observe the fair and admirable manner in which the examinations were conducted by their lordships: questions of the utmost importance to the elucidation of truth had been put; but they could be put no longer if the cross-examination were postponed. He denied that the examination could be renewed at a future time: matters of the highest consequence suggesting themselves in the course of the examination would be forgotten; and it was idle to say that they might be revived by a subsequent perusal of the evidence; all who were at all acquainted with the human mind must know, that it would be cold and lifeless, compared with the active suggestions of the moment. In this view the postponement would produce a grievous evil. Again, supposing a doubt were thrown in cross-examination upon any fact stated by a witness, the course was, to interrogate other witnesses in confirmation; but if the cross-examination were deferred, no such opportunity would be afforded, and the case would be thus unfairly prejudiced. But this was not all; for fresh witnesses might be required in support of the bill; they must be cross-examined, re-examined, and finally submitted to the inquiries of the House. Another difficulty appeared insuperable. How was it possible for the counsel supporting the bill to know how to conduct the inquiry, unless they were informed a little of the course of the questions and observations on the other side? Cross-examination was one of the most important inquiries in eliciting truth, not by confuting, but by confirming the witness; and if on the other side they were permitted to know all the case against them without giving the accusing party the least hint of their intentions, it was an unfair and an unjust advantage. It had been well said by one of their lordships—,

The *Lord Chancellor*.—You cannot allude to what has been stated in the House.

The *Solicitor General* apologised. He might perhaps say that it had been suggested, that if the cross-examination were delayed until all the accusing witnesses had been heard, the counsel in support of the bill would have a right to insist that they should not be compelled to cross-examine the evidence for the Queen until after the lapse of a reasonable time. Thus the proceeding might be eternal and interminable; it was impossible to see where it could end. He did not urge these inconveniences so much in answer to the arguments on the other side, as to show the wisdom of the rule now prevailing, and from which he hoped the House would not depart. It could not be infringed without infinite danger and positive mischief—without breaking in upon the rules and principles by which truth can be alone elucidated and investigated. He laid no stress on the observation, that counsel in favour of the bill could not sum up the evidence until the case had been gone through. Besides the course recommended was unjust to the witnesses themselves: much of a cross-examination depended upon small facts and apparently insignificant expressions, which could not be recollected, explained, or reconciled, after the interval of months, or even weeks. As the object of this proceeding was the investigation of truth, he might be allowed to add, that the recommendation would be injurious even to the Queen: the witness would thus have an opportunity of deliberating upon the evidence he should give, and of preparing himself for cross-examination; and to avoid this, all courts of law required that the cross-examination should immediately follow the examination in chief. Besides, a witness under cross-examination might hesitate, and prove the untruth of what he had stated; but if he were allowed to tell his story straight forward, and was followed by other witnesses to the same fact, it might amount to confirmation that could not afterwards be shaken.—After recapitulating

the various points he had urged, the learned counsel went on to observe, that although in the ordinary administration of justice the circumstance of the witnesses coming from abroad, gave neither party a claim to postponement, yet their lordships had granted as much as possible without wholly defeating the ends of justice. An important advantage had been conceded to the other side; for though it was decided that the cross-examination should not be entirely postponed; yet if any facts could be adduced coming afterwards to the knowledge of the party, their lordships, relying on the candour of the counsel for the Queen, had consented that the witness should be called back, and the cross-examination renewed. No tribunal could go further; but to grant the whole request of the counsel for the Queen would be to defeat the whole object of the inquiry, and to render it impossible for those who appeared at their lordships bar in support of the bill to discharge their duty.

Mr. *Brougham* commenced his reply by stating, that little had been offered on the other side requiring an answer. He could not, however, allow their lordships to separate without setting himself right with regard to a misquotation (undesigned of course) which he was supposed to have made from their lordships' journals. It was easy to mis-state a case, and easier to assert, that a case had been mis-stated. The counsel on the other side were very sharp men; but it would be well for them to be accurate as well as sharp, when they impeached the accuracy of other folks. The attorney-general had fallen into an error, though he was aided and accompanied by the solicitor-general who generally spoke with great contempt of every body but himself—and their lordships. He (Mr. Brougham) made this exception, because the solicitor-general had been pleased, to bestow his high commendation upon their lordships: though not lawyers, in the excess of his approbation he had admitted, that their lordships had put some questions to the witnesses in a form sufficiently judicious. (Order, order.) He was merely repeating what had been said by his learned friend, who had not been interrupted while expressing his approbation: it was a tribute from one who filled the high office of the king's solicitor-general—it was of considerable value, and he (Mr. Brougham) trusted it had been received by the house with becoming gratitude. Let it be recollected that this came from the solicitor-general—the only lawyer, at least the only accomplished lawyer in the profession, according to the opinion of some of his friends, who, by the bye, monopolized that opinion as he did the knowledge of the law. The solicitor-general had, too, a most able coadjutor, and between them both it might be said, that they had exclusive possession of all the law, all the wisdom, all the talent, and all the accomplishments on the present occasion. In truth, the counsel for the Queen had only one or two books:—they were only endowed with a volume or two—but that was sufficient upon the present occasion—and to those volumes they referred, upon those volumes they relied, upon that fortress they retreated, from the bitterness and severity of their attacks. Much had been said regarding the case of the duchess of Norfolk; but while his learned friends, relying on their own resources, only furnished themselves with Cobbett's State Trials; he and the Queen's solicitor-general had provided themselves with the original journals of their lordships House. The other side relied on the octavo edition, while the original folio, which would be evidence in a court of justice (if he might be allowed to state what would be evidence, not so much in the presence of the judges of the land, and of their lordships, as in the overawing presence of that greatest of all law authorities the solicitor-general, by whom he had been rebuked within the last half hour), had been produced in opposition to it. From that folio it was evident, that all that the attorney-general had advanced was founded in error, and that all that he (Mr. Brougham) had said was confirmed by indisputable fact. But, God forbid that he should glory or triumph over his learned friends as they had done over him; but it did happen, that about half an hour ago, and in this House (for he had no objection to specify time and place with the utmost possible precision), he had read the 46th and 47th pages of the 15th volume of the Journals of the House of Lords, where was stated the whole of what he had ventured to submit. It there appeared, that the proctor of the duchess of Norfolk had asked many questions of the witnesses, in order to furnish himself with the means of ascertaining their conduct and character: he had inquired of Margaret Elwood, where was her last

abode, whether she was single or married, with whom she now lived, and other interrogatories of the same sort; after which she was sworn, and not till then. The same course was pursued with Anne Burton; she was asked if she were a maid (he had ventured to put no such question to the witness of Saturday), whether she always had lived in Chancery-lane, whether she had been servant to the lords Ferrers and Devon, and whether at the time of examination she lived at her own cost and charges: to the last, much to her credit, she answered in the affirmative. Then she was sworn, and not till then; and the same mode was pursued with twenty other witnesses, one of the last of whom was Richard Owen, and he was asked whether he was kept by the duke of Norfolk. But, said the attorney-general, from his great authority, no copy of charges and no list of witnesses was given; but from the Journals it was clear that the contrary was the truth. The duchess petitioned for them, but a difficulty was for a time thrown in the way by a Latin protest delivered in by the proctor, which for the more easy comprehension of the House of Lords must first be translated into the vulgar. At length, however, the list was furnished, and most complete it was, for it went over the life and occupation of every witness for six or eight preceding years, and then three further days were allowed to the duchess for inquiry. Therefore, he said, with all possible humility and deference to the learned self-complacency of the solicitor-general (with whom he was far indeed from putting himself in competition, for all that he (Mr. Brougham) had acquired had come rather by God's good providence than by any industry or merit of his own) that the case completely bore him out in all the observations he had made.

The *Attorney General* said, that the inaccuracy of which he complained was, that in the particular list of times and places given in, his learned friend said it was five months, whereas it was six years.

Mr. *Brougham* answered, that if time were of any consequence to his argument, he could show that the attorney-general was here again in error, for the specification allowed to the duchess extended from January, 1685, to August, 1691; and if the same course had been adopted with regard to her majesty, she would at this moment have stood in a very different situation. So much for the attorney-general. He (Mr. Brougham) felt infinitely more awe in approaching his most learned coadjutor, because he knew his habit always was to tell the opponent who "touched him near"—"O! get you gone! you are no lawyer—you can be no lawyer—you are only the queen's attorney-general; but I am the king's solicitor-general!" That was a fact which he (Mr. Brougham) could not dispute or traverse; and that alone was enough to deter him from attempting to grapple with any of the arguments which had been adduced; he felt a conscious inferiority: he was aware that he was far below the king's solicitor-general in rank and in knowledge: the solicitor-general might say that he was only "a little lower than the angels," and a very little it was, if his own opinion were to be taken: the wonder therefore was, that with all his learning and greatness he could condescend to mis-state the arguments used against him. He (Mr. Brougham) felt the highest admiration for the great man of whom he was speaking: nothing he could say could add one leaf to the wreath of laurel he had obtained—nothing he could advance could give one more spark to the glory which both the solicitor-general and his powerful coadjutor had been daily increasing during this investigation, and before the patrons of this bill, to whom they were indebted for their well-merited professional promotion. *Proprio marte* they had acquired immortal reputation, and melancholy it was to reflect, that even these men, the most illustrious and exalted of their species, had still some taint of the frailty of our common nature. Not only had they mis-stated arguments, but they had substituted one for another. He (Mr. Brougham) had never said, that in a civil suit the defendant was entitled to a particular of time and place, but that he had a right to such a particular, as added to the contents of the declaration, made it a matter of absolute certainty, that he could not be taken by surprise, but must come prepared into court. If this were not furnished, a judge would make an order for the purpose, and in his own little experience (never comparing it with that of the king's solicitor-general) this had been done over and over again. But this was not a civil action, nothing like a civil action; and he asked whether, in all criminal proceedings, certainty was not by law secured to an individual accused? A man committed for a felony to York-cas-

tle, and put in a course of trial in Yorkshire, knew that the offence must be charged to have been committed there; but here the crime was extended over many years, and over many quarters of the globe: Europe, Asia, and Africa were charged as the scenes of her majesty's adultery. In the same way an indictment was not for a series of felonious acts: it was for picking the pocket specifically of A. B., and not for a pocket-picking intercourse of seven years of a man's life; and there was hardly an instance of a person being put upon his trial in this country who was ignorant of the precise nature and extent of the charge, and of the place where the offence was alleged to have been perpetrated.—A great deal had been said about the necessity of laying down a rule as a guide for the future: far be it from him to object to the utmost regularity, but it did seem a little strange that all of a sudden his learned friends minds were directed to proceedings of this kind, as if bills of pains and penalties were hereafter to form a great chapter in the law of the land. Resolutions might be made by the House not to draw certain matters into precedent; but that was a bungling way of doing business, and he would seriously ask their lordships if they were bound here to act as if Queen's bills were to become in future as common as turnpike-road and canal bills? The argument had been pushed even thus far: it was said, that it was better that the individual in this particular case should suffer than that a permanent rule should not be established. Surely this argument, if good for any thing, might be pressed both ways; for he might ask their lordships to lay down a rule favourable to the Queen, and pressing hard upon her accuser, in order that in future it might be adhered to inflexibly. Why was all the load to be cast upon the weaker party? Why was a rule to be made at the cost of the Queen only? The rule of law, and the ordinary merciful presumption of the judges was, that it was better that ten guilty men should escape than that one innocent should suffer: but now it was to be reversed at the instance of those two sages of the profession, and ten innocent persons were to be punished that one guilty might not avoid the merited sentence. But the Queen was in a situation of great disadvantage compared with her prosecutors: her acquittal, nay, even her conviction, could not be pleaded in bar of any further proceeding: this bill might be withdrawn and amended, again withdrawn and again amended: *toties quoties* new measures might be offered to their lordships against the Queen, and session after session she might be put upon her trial. This was no slight difference; and another important distinction had been demonstrated already by the evidenc, that the Queen's accusers had a power of procuring witnesses which she could not enjoy. Not only were large sums at their command, not only was force used where bribery failed, but the force (for the conclusion was irresistible) used to bring the king's witnesses would not be employed to make those of the Queen come. Further, the same force found effectual in driving the king's witnesses over, would be exerted to keep the Queen's witnesses back. He did not profess to be so deeply skilled in human nature as his learned friends; but he guessed that the same power which said to one man, "Go over to give evidence against the Queen," was not likely to tell another, "Go you to give evidence in her favour." He might assume even more; the government which told the king's witnesses to stay away from England at their peril, would warn those of the Queen to go to England at their peril.—These (concluded Mr. Brougham) are some of the difficulties of our situation. Upon these, and other grounds which we have stated, we leave the case in your lordships hands—ignorant of any way how to lead your lordships out of the difficulties, into which we have got—not quite certain that you are not stepped in so deep, that "returning were more tedious then go o'er". We may be like the king that Boyle used to call the cloud-commanding king, that could "throw a darkness and mist over most points and render none more clear: but at the same time, I assure this House that we have applied ourselves with the utmost sincerity and diligence, to see if we could discover some way in which these clouds could be dispersed, and the path of justice, in this stage of the proceeding, be made straight and smooth; but in this our constant diligence and constant endeavours we have wholly and entirely failed.

The Earl of *Liverpool* moved, that the House do now adjourn, the arguments of counsel being finished. He thought it but right that the House should take till to-morrow morning to consider what rule it would be expedient to adopt. Before he sat down, however, he felt it absolutely requisite to make an observation upon

what had last fallen from her majesty's attorney-general. He felt it essential to state that unlimited pecuniary means were placed at the disposal of the Queen's professional agents, for the purposes of her majesty's defence; and that with regard to foreign governments compelling witnesses to attend here, some of them neither could nor would resort to any such compulsion; but that whatever governments did compel witnesses to come here, and more particularly the principal power under whose jurisdiction most of the witnesses resided, the same means that were resorted to for the purpose of compelling witnesses to attend here to give evidence in support of the bill, would undoubtedly be used to compel the attendance of witnesses on behalf of the Queen.

Lord *Erskine* recommended the House to pause even now in the course they were pursuing, beset as they were with difficulties, and as the only means of getting into the right course, to postpone the further proceeding till the Queen should be ready with her defence, and in the mean time to grant her majesty a list of witnesses, and a specification of times and places. He would make a motion to that effect to-morrow morning.

Adjourned till to-morrow.

HOUSE OF LORDS.

Tuesday, August 29.

The House having been called over,

The Earl of *Liverpool* observed, that when he made the motion yesterday that counsel should be called in, it was with the view of hearing what might be said on either side on the subject of the instruction he had moved respecting the course of proceeding. He had then observed, that he should not think himself bound by any opinion he had given on the subject of his motion, if, upon the statement of the counsel, it should appear necessary for the due administration of justice, that an alteration should be made with respect to the cross-examinations. He still conceived, however, that the course recommended by his motion was that which was most convenient for their lordships' proceedings; and also, as far as he was capable of forming an opinion on the case of her majesty, the most advantageous for her interests. But the counsel for the Queen had not thought so, and in their argument at the bar had pressed for a contrary course; namely, that they should have leave, after certain questions were asked of a witness, to postpone their cross-examination to a subsequent period. In insisting on this point, they had referred to what they conceived to be an understanding upon the subject. He was certainly ready to allow that on Saturday last an option had been given them under the discretion of the House, and on their asking for it, to put a few questions, and to postpone the remainder of the cross-examination. Upon consideration therefore, of the inconvenience of withdrawing an advantage which appeared to have been conceded to them, he thought that their lordships ought to continue the indulgence; it being always understood that the counsel in support of the bill should not be called upon to sum up their case until the whole of the cross-examinations should be concluded. In stating this as the result of the consideration he had given to the question, after hearing the counsel on both sides, he must still say, that he thought the other course the best, both for the convenience of their lordships and the Queen's defence. At the same time, the distinction between the two modes was unimportant; because, if the counsel for the defence were allowed to call back witnesses for a second cross-examination, upon their stating a special case, it would be very easy for them to accomplish that object, as they could find no difficulty in laying such a case before their lordships whenever they should think it necessary. As, then, the difference between the two courses was so little, he thought their lordships, under all the circumstances, should now allow the course for which the counsel for the Queen contended. He therefore proposed to withdraw the motion he had made yesterday, and to move in its stead, that the counsel be called in and informed, that the House consented, under the special circumstances of the case, to allow them to proceed in the cross-examination in the way in which they had proposed.

The Earl of *Lauderdale* observed, that according to their lordships' standing orders, when a motion was once submitted to their consideration, it could not be withdrawn without the consent of the whole House. It was therefore sufficient that one peer should object, and he declared that he would not consent to the withdrawing of the motion.

Earl *Grey* was aware that his noble

friend was perfectly right in what he had stated respecting the rules of the House; but he differed with him as to the necessity of opposing the withdrawing of the motion in question. He thought his noble friend ought to state some ground for his opposition.

The Earl of *Liverpool* admitted that the noble earl was perfectly correct in his reference to the orders of the House. He certainly had a right to oppose the withdrawing the motion; but the difficulty could be easily got over, by his proposing the motion he had now suggested as an amendment on his motion of yesterday.

Lord *Erskine* was happy to see ministers at last coming forward to amend their own awkward work. As ministers were thus disposed to amend their own motion, and to correct their own ill-judged proceedings, nothing could give him more pleasure than to withdraw the motion he had proposed, if he should be given to understand that the counsel for the defence were to be permitted to have the advantages to which they were justly entitled.

The Earl of *Harrowby* said, that to remove any objection as to the amendment being proposed by his noble friend, he would move it himself.—The noble lord accordingly moved the resolution stated by the earl of Liverpool as an amendment on the motion made by that noble lord yesterday.

The Earl of *Lauderdale* observed, that the question was now put into a shape which called for their lordships' attention; for it came before them in the shape of a motion made by the first lord of the Treasury, and amended by the president of the council. It was singular enough that this proposition should come from the noble earl opposite, who had contended so strenuously for a different course; but if the motion were to be agreed to, and the counsel for the Queen permitted to suspend the cross-examination of a witness, and resume it at pleasure, he should be glad to know at what time the examinations by the House were to take place. The proper time would be at the close of the cross-examination; but how was that to be done, if the counsel for the Queen, after having cross-examined a witness, were to say he was not sure but that he would have occasion to call up that witness again? He had a right to ask the noble lords what their view of the course to be pursued in this respect was. After having come down with this motion, which they had converted into an amendment, they ought to be able to state what was to be done in that important part of the examination to which he had alluded. He really wished the noble lords would state to the House when and in what manner the peers were to examine. He need not remind the House, that one of the many difficulties he had pointed out yesterday as unavoidably connected with the course proposed to be pursued by the counsel for the defence was that of leaving it quite uncertain at what period of the proceedings their lordships should examine. But the noble earl had assigned a curious reason for his conduct on the present occasion. He had contended, that, the thing would come to the same point whether the cross-examination were gone fully into immediately after the examination in chief, or whether the counsel for the Queen were allowed to suspend the cross-examination, and recall the witness at a future period; because, said he, as the counsel were to be allowed to recall a witness on stating a special case for so doing, it would be impossible for them ever to fail in making out such a case. Now, if this was the noble earl's opinion, why did he take the trouble of making his motion yesterday? The noble earl was certainly the first person who had ever thought fit to abandon a motion on the day after he had made it, on such a ground. He had also contended that the course he recommended was that which was most convenient for their lordships' proceedings, and consequently the best, while it was at the same time the most favourable to the interests of the Queen. All this the noble earl had argued for, and yet he now abandoned the motion he had made for carrying his own recommendation into effect. Such an instance of inconsistency and vacillation of opinion, he believed, never had before been exhibited. It was impossible for him to agree to the amendment; and he would therefore vote for the original motion.

The Earl of *Liverpool* felt himself called upon to say a few words, in consequence of what had fallen from the noble lord, and he could not but complain of the tone in which that noble lord had just spoken with respect to the motion under their lordships' consideration. When he made

the motion yesterday, he was far from holding out the course it recommended as indispensable. He had, on the contrary, expressly stated, that he thought it would not be proper for their lordships to decide until the counsel on both sides were heard. When counsel were called to the bar by their lordships' order to argue a question, it was absurd to say that, whatever they might urge, the House was not to be allowed to change its opinion. What would be the use of hearing those learned persons at all, if what they said was never to have any influence on the opinion of the House? He had stated yesterday, in reply to a noble lord opposite, that he did not think himself more bound than any other of their lordships to the opinion expressed in his motion. He had expressly stated that he considered himself as free as any other peer to recommend an alteration in the course of proceeding. With regard to the inconsistency, therefore, which the noble lord fancied he had succeeded in pointing out in his counduct, that noble lord proceeded altogether on a mistake. He must further observe, he had never stated, that the mode of examination recommended by his motion and that proposed by the counsel for the defence, were the same. He was too sensible that they were very different to make any such assertion. What he had stated was this:—that under his motion of yesterday the practical effect would be much the same as if the course proposed by the Queen's counsel were adopted, because the advantage for her majesty's defence would be the same, or indeed, as he had shown, in some respects greater, by the mode he recommended. And here he had to observe, that the House was not, as some noble lords had contended, bound to be strictly guided by the practice of courts of justice. They were justified, when they thought it necessary, to take a far greater latitude; and so far from his motion of yesterday being founded on the practice of the courts below, it must be obvious to their lordships that it went much farther, The ground, therefore, on which he agreed to the amendment moved by his noble friend was simply this:—that an indulgence had been already granted by the House, whether wisely or not he should not now discuss—that an expectation had been held out, whether properly or not was not then the question, which he thought ought not now to be disappointed. As the counsel for the defence insisted upon what they considered to have been an understanding, and as they pressed for it as indispensable for the interest of their client, he should not refuse their demand. Whatever might sometimes be done in the heat of debate on political questions, he could never, in a case like the present, be persuaded that it was not his duty to listen to the arguments of counsel at the bar, and he had no hesitation in saying that he was always ready on conviction to give up any opinion he had previously formed.

Lord *Erskine* said, that if, when the counsel were called in, they declared themselves satisfied with the mode of proceedings now to be offered to them, he would be silent for ever; but if they said that they were not satisfied, then he would move an adjournment of the House. He wished that counsel should be called in, and that it should be ascertained from them what they required of their lordships. The House did not seem to be fully aware of what the counsel asked. They asked, that evidence should not go forth to poison the public mind without the best antidote they could give at the same time—that they should proceed as far in the cross-examination as they were enabled by their limited knowledge of the witness, and that the bane and antidote should go together. God forbid, that this House should refuse a request so just and so moderate! The noble lord wished distinctly to know if their lordships meant that the counsel for the Queen should, after the adjournment, call the witnesses again and cross-examine them.

The Earl of *Liverpool*, had no objection to the counsel for the Crown putting what questions they pleased to the witnesses after the examination-in-chief. He was also willing that, on stating that they wished to call any witness again, they should have leave to subject that witness to a second or renewed examination at any time they might think fit. The only condition he wished to impose was, that the attorney and solicitor-general should not be called upon to close the case in support of the bill until the counsel for the defence had finished all their cross-examinations.

Lord *Erskine* was happy to hear this explanation given. He was glad to see

that the House was disposed to imitate the conduct of Gil Blas, who retraced his steps and went back again when he was able to do no better. What was now agreed to was nothing more than that course which had been held out as a compensation on the rejection of his motion. He had listened too carefully to the powerful speech made by the noble earl on that occasion to have misunderstood him. He hoped he should now have some credit with the House for having at least rightly understood what the noble earl said on that occasion, and fairly represented him.

The Earl of *Donoughmore* felt himself bound to state, that the opinion given to the counsel for the Queen was, to take the whole cross-examination at the time, or defer the whole to their defence. There were now three questions before the House: 1st, the examination of the Lords; 2nd, the postponement of the cross-examination; and 3rd, the time of summing up. He would take the last first, as it scarcely required a word, since it was impossible to close the case until the evidence was finished on both sides. As to the examination by their lordships, from which much good had already arisen, he contended there was nothing in the nature of these proceedings, nothing in law, to prevent it. Was there, he asked, any case made out by the counsel at the bar to show that their lordships should not put questions? On the contrary, all parties agreed that such examination was productive of great advantage. In what court had it ever been said that the judges of the court had not a right to examine the witnesses? On the whole, he conceived that the House ought at once to come to a right understanding. Their lordships had no objection to the cross-examination proceeding when the examination in chief was ended, or to its being postponed to a subsequent period; and that the counsel for the Queen should have the privilege and full right either of cross-examining the witnesses immediately on the close of the direct examination, or of postponing it entirely. This was not granted as an indulgence, it was a matter of right.

Lord *Ellenborough* said, that undoubtedly, the difficulties attending either course were considerable, but they appeared to him to press just as heavily on the counsel for the bill, as on the counsel on the other side. The counsel for the bill had to contend with a cross-examination spreading over a series of years, and had as little knowledge of the state or character of the witnesses as their opponents. They were as much entitled, therefore, to a delay, if they required it, for the purposes of their re-examination; and if new witnesses should be produced for the defence, to further time, in order to meet such additional evidence. Let their lordships, then, consider to what extent this proceeding must be carried. They might again and again be called upon, to postpone an examination, and every postponement might furnish occasion for another. Once engaged in such a course, he firmly believed that they would find it impossible ever to bring this inquiry to a close. If their lordships adopted such a principle as that contained in the amendment, he apprehended that the ends of justice must be disappointed. So insurmountable appeared to him the difficulties which would then present themselves in the way of attaining those ends, that he found himself compelled to negative the amendment of the noble earl. A specification of the times and places at which the alleged offences had been committed would, in his opinion, have been productive of less inconvenience than the course now proposed. Lists of witnesses would then have been interchanged, the first adjournment would have been for a longer period of time; but then, when they finally met, they would have been enabled to proceed free from all those inconveniences by which they were at present embarrassed. No doubt there would now be some reason to complain on the part of her majesty, in the case of an adjournment, that the case against her had been opened, and evidence left to rankle in the public mind before she could have a full opportunity of entering on her defence. But this the counsel for her majesty had themselves proposed to inflict on her; and he doubted much whether counsel could be replaced in the same circumstances as to carrying on a cross-examination after an adjournment as they were in before. A third course had been pointed out, but he could not see the superior advantage of it; and in the midst, therefore, of so many difficulties, he was inclined to think the proceeding suggested by his noble and learned friend was the more advisable. He trusted their lordships would regard the character of the House, and not establish precedents which either immediately, or in their consequences, might prove unfavourable to the substantial interests of justice.

Earl *Bathurst* was of opinion that it would be most advisable to recur to the proposition originally made, which was, to allow counsel to pursue their cross-examination to any extent, with a liberty to call the witnesses back, and to continue it as far as they might desire.

Lord *Ellenborough* wished to know what extent would be deemed sufficient, as it might otherwise run to an interminable length.

The Earl of *Liverpool* observed, that there might be a limit as to times and places; but if the questions went to the discredit of a witness, he did not see that counsel could be precluded from pursuing their cross-examination.

The *Lord-Chancellor* thought it his duty to state the view which he now entertained upon this question. If in the course of yesterday's proceedings he had given any opinion which he had since seen reason to alter, he should hold himself under a sacred obligation to acknowledge that he had so altered it. Further reflection, however, had only served to convince him, that the ends of justice never could be obtained, if their lordships yielded to the proposition now before them. He must be allowed at the same time to say, that he had never expressed any thought so inconsistent with the ordinary course of justice, as that counsel ought to be stopped in the course of their examinations. He never had approved of such a proceeding, but thought, on the contrary, they should be at liberty to carry on their first cross-examination to any extent which in their discretion they might think fit. But he was just as well satisfied of the necessity of exercising some sound and wholesome control over the practice of calling witnesses back, and subjecting them to a renewed cross-examination. They were bound to exercise what the law called a sound discretion in administering justice; and he could not admit the propriety of renewing a cross-examination, unless it was intimated by the counsel claiming such a liberty, that new facts or circumstances had been discovered, or unless it were intended to supply an accidental omission. Counsel might also apply for it in the first instance, if they conceived that any material purpose might be answered by postponing their cross-examination till some further testimony was produced on the other side. This they could only be expected to do in the exercise of a sound discretion due both to their client and to the court, and their lordships would doubtless consider of such an application. But in the first case, counsel ought always to be at liberty to cross-examine as largely as possible; and there was no principle more essential to the due administration of justice, than that the court should be believed to administer it. There was no reason why that great court should not be intrusted with the same discretion as other courts; and if ever there was a case in which the party accused had a right to expect a satisfactory termination of the inquiry, it was this case. After having, therefore, tormented his mind with considering this subject in every light, he was satisfied that the proceeding would have no end if their lordships should acquiesce in the course now recommended by his noble friends. The only safe way was, to adhere to their established rules.—He might here also take the opportunity of observing, that if noble lords put questions to a witness whilst he was yet under the examination of counsel, they thereby raised a new case upon which cross-examinations and re-examinations must be admitted, after which their lordships would have to renew their examination, and would be thus moving on in an endless circle. He was acting in that House under a solemn obligation, which obliged him to state his own opinion even though he differed from all whom he respected. The rule, he conceived, by which they ought to govern their proceedings, was, to allow a cross-examination to any extent in the first instance, and to afford, if the ends of justice seemed to require it an ample opportunity of resuming it. If their lordships were, however, of opinion that a sound discretion did not vest in them, in the discharge of their judicial functions, it would be better to shut up their house at once and acknowledge their inability to go on. He saw no other mode of extricating themselves from their difficulties but that which he had now pointed out; but if their superior wisdom should adopt another course, he would endeavour to struggle through it. It was his duty to make a frank statement of his own opinion in the first instance, and when that was overruled, to lend them all the assistance in his power in carrying what might appear to them a more expedient course into effect.

The Earl of *Harrowby* expressed his conviction, that if any thing could inspire

the public with perfect confidence in the disposition of that House to do justice in the important case before them, it was the nature of their present deliberations. It was evident, that, however different their lordships general opinions might be, there was but one spirit by which they were actuated on the present occasion—namely, to discover how they could best discharge their judicial duties, and more especially how they could best discharge them with fairness to the illustrious person accused. The amendment which he had submitted to their lordships, on the proposition of his noble friend, had for its object to comply with the request which had been made to their lordships by the counsel for her majesty. This proposition was grounded on the conviction which he and his noble friend entertained, that there did not appear any very essential difference in the conveniences or inconveniences of the two modes in which their lordships might proceed; and it was their wish, the scale being nearly balanced, to lean to that mode of proceeding which the counsel for the accused stated to be favourable to their cause. At the same time he was ready to admit, that if it should appear in the course of debate, that a greater preponderance of inconvenience existed—he meant, a greater probability of a departure from the attainment of that which was the ultimate end that all their lordships had in view—the discovery of truth, by the course which he recommended—that then it ought by no means to be adopted by the House. He really thought that the counsel for her majesty had laid practical grounds before their lordships for an acquiescence in their application. The plain and simple question was, had the counsel for her majesty been given to understand that the option would be granted them of conducting the cross-examination according to their own discretion? He thought they had, and he thought it would be more satisfactory to every one of their lordships individually, and to the character of the House at large, if they had fallen into a misapprehension on the subject, and had encouraged expectations which they did not intend to encourage, not to disappoint those expectations, after having excited them. Still, however, he by no means denied that the inconveniencies of pursuing the course which he recommended, might perhaps be shown to be so great as to overrule his arguments. That, however, did not yet appear to him to be the case. If in the course of what had fallen from his noble and learned friend, he had felt convinced that the balance of inconvenience preponderated against his proposition, he should have felt no shame whatever in acknowledging it. Unquestionably, in whatever way their lordships proceeded, considerable difficulty and delay must take place. But there were evils inherent in the case, and they must be fairly grappled with. It was acknowledged on all sides that it would be impossible to call on the counsel whose duty it was to support the bill to sum up, that it would be impossible to preclude them from bringing forward such additional witnesses as the cross-examination might seem to them to render necessary, until the whole cross-examination was completed.—He allowed that there would be a great advantage in restricting as much as possible the proceedings in that high court of parliament, within the same rules as those laid down in courts of justice. But their lordships were not to tie themselves so closely down to the observance of those rules as to obstruct themselves in the discovery of truth. As to the apprehension, that by departing from those rules a precedent of a dangerous nature might be established, he thought it chimerical. Centuries had elapsed, and in all probability other centuries would elapse, without the occurrence of any case similar in character to the present. After much deliberation, his noble friend and himself had arrived at the conviction that it would be the most satisfactory course, in this peculiar case, to permit the counsel for her majesty to exercise their own discretion as to the mode in which they would proceed with their cross-examination. It was for their lordships to determine on the different propositions which had been submitted to them.

The Marquis of *Lansdown* said, that if the amendment which had been proposed by the noble president of the council were brought to the vote, he should certainly vote for it, although with a deep sense of the great inconvenience attending the whole course of proceeding—a sense which had certainly been much fortified by what had fallen from the noble and learned lord on the woolsack—and with an undiminished preference for that other course which he had before declared it to be in his opinion most desira-

ble that the House should pursue, and which he thought would be the only one left for them, even after the adoption of the present proposition. It was now generally felt with reference to the peculiar situation of the proceedings, and to the exercise of that most important right, the right of cross-examination, that the counsel for her majesty (not having been put in previous possession of the names and places of residence of the witnesses, so as to be enabled to inquire into their character and credibility) must have a clear unquestionable right secured to them, and subject to no interference on the part of their lordships, to defer such part of any cross-examination as they might think it necessary to defer, until they had made themselves acquainted with the facts respecting which they wished to inquire. Any man who reflected on the situation of a counsel at their lordships bar, entrusted with the interests of such a client, must be aware that it was quite impossible for him to judge how far he should carry, or where he should stop in a cross-examination, unless a certain opportunity were assured to him—an opportunity not contingent on any thing—for bringing a witness again to the bar for the purpose of continuing his cross-examination. His objection to the course recommended by the noble and learned lord on the woolsack, was, that it did not afford that assurance. Although he did not think that ultimately there would be any material difference in the two modes of proceeding, he yet felt that her majesty's counsel ought to enjoy a certainty on the subject. But, although on these grounds he would vote for the amendment of the noble president of the council, he felt all the difficulties of the case, as connected with the due administration of justice by that House; and the more he reflected on the subject the more was he satisfied of the expediency of the course which had been suggested by his noble and learned friend; and which, if his noble and learned friend should persevere in again bringing it under their lordships consideration, he would warmly support. It was admitted on all hands that great inconveniences must exist, whatever line the House might pursue. Was it not advisable to consider whether it would not be expedient to adopt the one inconvenience, resulting from the proposition of his noble and learned friend, which would put an end to all future inconveniences on the subject. By doing so, their lordships would establish no precedent—they would occasion no inconvenience—they would place themselves by one act in a situation free from future difficulties, by adjourning to a period which would enable her majesty's counsel to acquire all the information necessary for their case; they would adhere to known rules and practice, instead of wandering into a perilous sea, without chart or compass. According to the course now adopted, the difficulty did not end with the necessity under which her majesty's counsel would lie to recall witnesses for cross-examination. The counsel for the bill would thereby be compelled to call fresh witnesses—it would be necessary to rebut those, by additional testimony on the other side; and so on, in a perpetual round, injurious to the ends of justice as they respected her majesty, as they respected his majesty, and as they respected thewhole country; and leading to what the noble and learned lord on the woolsack had justly apprehended—an interminable proceeding. What principle could their lordships lay down if they adhered to their present course? Where would they stop? When would they say to the Queen's attorney general "you shall examine no further;" or to the king's attorney-general "you shall call no more witnesses." If it were the object of either party to protract the proceedings indefinitely, their lordships could not more effectually defeat that object than by departing from the course they had adopted. If their lordships acceded to his noble and learned friend's proposition, furnished her majesty's counsel with a list of witnesses, and adjourned for a reasonable period, they would establish no precedent that could hereafter be injurious, they would when they re-met take up the proceeding on a good and settled principle. If, on the contrary, they resorted to expedient after expedient to get rid of difficulties as they arose, they would establish new precedents and new principles that might be pregnant with the most injurious consequences. Let them adopt his noble and learned friend's suggestion, and all future inconveniences would vanish, and their lordships would see their way to the end.

The Earl of *Lauderdale* wished to be informed of the present state of the question before the House.

The *Lord Chancellor* stated, that the amendment before the House was, to omit all the words in the original motion after

the word "That," for the purpose of adding "counsel be called in and informed, that under the especial circumstances of the case, the House would consent to the counsel for her majesty proceeding in the cross-examination of witnesses, in the manner they proposed; namely, that they should be enabled to cross-examine to the extent they might prefer, with the liberty of calling back the witness for future examination."

The Earl of *Lauderdale* said, he had a proposition to make which he thought it impossible the House should reject. Their lordships had heard the various arguments which had been urged on the subject, and in opposition to each other, by the noble president of the council and the noble and learned lord on the woolsack, the latter of whom had distinctly declared, that to agree to the proposition made by the former would be very much to impede, if not wholly to defeat the ends of justice. Their lordships might have the benefit of the advice of the learned judges; and, under all the circumstances of the case, he submitted to their lordships that they would neglect their duty if they did not avail themselves of it. He proposed therefore that the judges should be asked, "if in a court of law a rule were to be made by which a counsel should be left at liberty to cross-examine a witness immediately after the direct examination to whatever extent he might think proper, with the liberty of calling that witness back and cross-examining him again, what effect such a rule would have on the administration of justice" [No, no]? He thought this proposition ought not to be met with clamour. He thought the House ought to know what effect the judges considered the adoption of such a rule of law would have in the courts below. He knew very well, that if he required the judges to state what effect such a rule would have there (the House of Lords), the proposition would be inadmissible; but he considered it to be quite competent to him to ask them what effect the rule would have in the courts below.

The Earl of *Liverpool* said, he must object to this proposition. In the first place, he thought the learned judges would be rather embarrassed to say what effect an entire new rule of law would have on the courts below. In the second place it was not practicable so to assimilate the proceedings before their lordships and the proceedings in a court of law, as to make a rule established in the former a precedent for the latter. Their lordships were governed by their own precedents—Courts of law were governed by theirs. But independently of that consideration, the words "under the especial circumstances of the case," were inserted in the motion expressly to prevent it from becoming a precedent. With respect to what had been urged by a noble marquis, and other noble lords on that side of the House, as to the expediency of adopting a course of proceeding altogether different, he must say, without in the slightest degree meaning to undervalue the opinion of those noble lords, that he was satisfied the course which they recommended, would be liable to at least as many inconveniences as that which their lordships had thought fit to adopt.

Lord *Redesdale* was of opinion that the question which his noble friend proposed to put to the judges, could not be productive of any beneficial answer. He was so persuaded, however, that the amendment of the noble president of the council would be highly inconvenient, that he could not assent to it. Instead of tending to the discovery of the truth, the mode of examination which the adoption of that amendment would sanction, must tend to the very reverse. It would put the whole of the evidence into the power of the counsel, to manage as he pleased. In his opinion, the cross-examination ought to proceed immediately after the direct examination, although he willingly admitted, that if a sufficient reason were alleged for the proceeding, a witness might be subsequently examined. The proposition before their lordships would, if adopted, enable the counsel to garble the evidence, than which nothing could be more injurious to the ends of public justice.—The effect also would be, that the evidence would be in the utmost confusion, and their lordships would find it impossible clearly and intelligibly to connect the parts. They would not have in their recollection, after the second cross-examination, what had occurred in the first. Although the words "under the especial circumstances of the case," were well intended to guard the proposed rule from being drawn into a precedent; he did not think they would have that effect. Former rules so guarded were, nevertheless, now, cited as precedents. In the duke of Norfolk's case, when the duke attempted to obtain a di-

vorce from parliament, without having brought a previous action against the adulterer, or without any proceeding in the ecclesiastical court, the House proceeded in an irregular manner. They examined witnesses on interrogatories. They proceeded in a way in which he was sure their lordships would never proceed again. It had been said, that it was an "especial case," but that had not prevented their lordships at that period from at least coming to a right determination on the subject. They told the duke he must establish his case in the ordinary courts and then come to parliament. The duke then brought his action against the alleged adulterer, and recovered damages. He then introduced another bill, but the question having been asked, whether the duchess of Norfolk was a party to it, it was answered in the negative. The duke then proceeded in the ecclesiastical court, and ultimately came to that House, in the way which had ever since been proceeded in. He (lord Redesdale) conceived that it would be highly dangerous, even under the guard of its being stated as an especial case, to put on their lordships Journals a resolution contrary to the regular mode of proceeding. He contended, that all the advantages which ought to be derived by those who opposed the bill would be derived from proceedings consistent with the ordinary rules of courts of justice. He contended, that the proper and regular mode of proceeding was, that the witnesses should be fully cross-examined immediately after the examination in chief.—With respect to not knowing all the circumstances and all the facts that relate to those witnesses, that would unquestionably be a ground for a further cross-examination, consistently with the ordinary course of proceeding in our courts of justice. If, from any circumstances, a material question should not have been put on the first cross-examination, that also would be a ground for a subsequent cross-examination. For what purpose, then, he would ask, could this extraordinary proceeding be required or adopted, unless for the purpose of garbling the evidence? In his opinion it could be for no other purpose. He should therefore withhold his assent from it, and he must say, that if established as a precedent, it would be the most mischievous one ever established.

The House divided—Contents (for lord Harrowby's amendment), 121; Not-contents, 106: Majority for the amendment, 15.

Lord *Erskine* expressed his satisfaction at the vote which had just been given, as it relieved her majesty's counsel from many of the difficulties which would otherwise fetter them in the discharge of their duty. In fact, the state in which the matter stood before that decision was confusion worse confounded. Having, however, got thus far, the period was perhaps arrived, when every remaining difficulty might be set aside. The noble earl opposite had, yesterday, said, that the refusal of a list of witnesses, in the first instance, was productive of advantage to her majesty, more than equivalent to any disadvantage arising from a publication of the evidence. Supposing this to be true, it only showed them, that the effect of committing an error was, their being obliged to make concessions, which might otherwise be avoided. [The noble lord spoke in so low a tone, as to be at intervals inaudible below the bar]. The vote to which the House had come, only convinced him more and more of the necessity of still doing what the House, in his opinion, ought to have done at first —allow her majesty a list of witnesses, and a specification of the times when, and the places where, the alleged acts of criminality were said to have been committed. He meant, therefore, to move, that the House should now adjourn for such a time as should enable her majesty's counsel to make the necessary inquiries in order to prepare for her defence. And in order to ascertain what time would be necessary, he should propose, that counsel be heard at the bar on the subject. He could not conceive what objection existed against a motion of this kind. The witnesses were all here, and he took it for granted under adequate protection. It was seen, that the names and evidence of the witnesses already examined had gone forth to the public, and yet no violence or insult was offered to them. What disadvantage, what danger, then, could arise from furnishing her majesty with the names of the remaining witnesses? If her majesty did receive a list of witnesses, she ought also to know what they were to prove against her, he did not mean to detail, but generally what each witness was to be called on to substantiate, and specifying also the times and places. This, he repeated, would only be doing what ought, in his opinion, to have been done at first. Then

the whole of the evidence would be gone through regularly. The attorney-general could go regularly through his case, and her majesty's counsel could go on *de die in diem* with the cross-examination, until the case for the Crown was closed. Then, on the close of the defence, the attorney-general would have an opportunity of replying. He might be asked, what would be the case if the Crown should afterwards proceed to call new witnesses, if they were allowed to make out a new case? But he answered this would not be so. If it became necessary on the part of the Crown to have new witnesses, their lordships would have an opportunity of acting under the best advice from those persons who had for so long a time been administering justice in the country. He should therefore move, "That the counsel for the bill be instructed to deliver to her majesty's counsel a list of the remaining witnesses together with a specification of the names and places to which their evidence was to apply." If this was carried, he should then move, that counsel be heard as to the period of adjournment which would be necessary.

The Earl of *Lauderdale* wished to ask his noble friend, whether he meant this as a revival of his former motion, on the same subject, which had been negatived? He asked this, as he conceived it to be very different. This motion would go to preclude the counsel for the bill from calling any new witnesses.

Lord *Erskine* said, he meant it as a revival of his motion. When a question arose, as to the Crown calling new witnesses, their lordships would, he conceived, be governed by the ordinary practice of the courts of justice. By the vote which had been given, that had been gained which otherwise would have been lost. But the motion he was about to make was at the same time more favourable, and more just towards her majesty.

The clerk here read at the desire of lord Lauderdale, the former motion of lord Erskine from the Journals.

The Earl of *Lauderdale* said, that his object in having the motion read, was, to show that it differed in its character from that which his noble friend had just made —that the latter was more extravagant and more strong than that which their lordships had negatived. After alluding to the consistency of his noble friend, in voting for the amendment of lord Harrowby, and then in proposing that the present motion should do away with that amendment altogether, the noble lord proceeded to ask, why he (lord Erskine) did not, if he meant to make such a motion, spare the House the labour of four hours discussion, and propose his motion in the morning? It appeared to him that there were some persons who when they got an inch would take an ell.

Lord *Erskine* said, that nothing was more easy than to give the noble lord a satisfactory answer. In the morning, when he came to the House, the noble earl (Liverpool) interfered, and proposed to give to counsel that mode of examination which the House had before refused ["no, no"].

The Earl of *Liverpool* observed, that the House had not before come to any determination on the subject.

Lord *Erskine* continued—Be it so. He understood that the House appeared inclined to give that which before they appeared disinclined to give. He therefore postponed his motion until he saw to what determination the House was likely to come on the other subject. Surely he could not refuse voting for what he conceived to be good, because there was something which he conceived was better and ought to be granted. He waited until he saw what was the opinion of the House, and his noble friend, who had risen to thrust him out of the possession of the House, now complained that he had not brought forward his motion soon enough. He did not mean that the counsel for the Crown should be bound by the act of William, but he wished that the Crown should, after the cross-examination, not call whom they pleased, but that they should call such evidence as would be legal in a court of law. He would give them the option of calling such witnesses as they thought necessary, under the advice and opinion of the learned judges. Their lordships frequently said, that they wished to assimilate this proceeding, as nearly as possible, to a proceeding in a court of justice, and with that view it was, that he now proposed an adjournment, in order that the case might, when it again came, proceed without interruption.

Earl *Bathurst* said, that the motion already agreed upon by their lordships gave the accused an advantage which, under all the circumstances, he thought it was desirable should be given; but it was quite a different thing to adopt such a motion as that now proposed by the noble

and learned lord. The former motion was agreed to, for the purpose of preventing the examination of witnesses from being interminable; it was granted to avert that mischief, and to give the accused the advantages now sought to be obtained in a different form by the noble and learned lord's motion. In fact, the present proposition had been already discussed and decided upon by their lordships; he had stated his objections to it at the time; they were all in full force still, with others superadded to them; yet, notwithstanding the decision already had upon the motion, it was now introduced again for their consideration, without even a hint of the necessity of calling upon the counsel for the bill to know whether it would not be highly prejudicial to the proceedings upon that bill to give the list of witnesses now for the second time claimed. Was this motion, he would ask, founded upon an assumption that all the witnesses were here, and therefore that no difficulty could arise in complying with the demand? He did not know that the noble and learned lord had any authority for such an assumption. But before they acted upon an assumption of that kind, they ought to call in the attorney-general, and ask him whether he had all his witnesses here. Suppose they were all here, and that a list was given, what security had their lordships, that, from day to day, the persons whose names composed that list would not be exposed, and that too during an adjournment to investigate their character, to the most libellous and slanderous imputations, just as those had been who had already undergone examination? If the attorney-general were called upon by the authority of their lordships to give a list of his witnesses, was that list to be deemed conclusive? Was the attorney-general, after the adjournment, and after perhaps further information had put him in possession of new evidence upon most important facts, to be concluded by his list, and deprived of the opportunity, however material to the attainment of the ends of justice, of producing such witnesses? And yet, that might be the effect of acceding to the noble and learned lord's motion. A case of high treason, their lordships knew, was the only case in which a list of witnesses was granted to the accused. He would ask them, if their experience of the operation of that rule afforded any encouragement to them to extend it? It was true their ancestors had made the rule, but they took care in the mode of its enactment, to throw off its operation from their own times. In fact, it never was acted upon until the time of lord George Gordon. Their only experience of the rule was therefore from that time; and he much doubted whether it furnished them with any very cogent arguments for extending the sphere of its operation. He certainly, speaking for himself, saw in that experience any thing but an inducement to extend the effect of the rule. Even on the very first occasion when it was called into action, lord George Gordon, under whose name at least the dreadful riots of 1780 took place, mainly escaped by strength of that rule. He would also appeal to the recollection of the noble and learned lord, in more recent cases than lord George Gordon's, whether his experience impressed him with any desire to extend to other cases that provision which was allowed in cases of high treason. Did not that noble and learned lord recollect one case, in which immediately after this list of witnesses was given, a principal witness suddenly disappeared? And whether, after the most minute inquiry, there was not every reason to believe, from the best information that could be obtained at the time, that that witness had fallen a victim to an assassin. This was at least one consequence which had been ascribed to that rule. Take even the very last case of high treason which had occurred in this country. The evidence which led to a conviction in that case was brought home to the parties by a chain of facts, which was kept together with the greatest pains and the utmost care. If the smallest link in that chain had been broken, it would have been fatal to the prosecution; and yet, in that very case, two days after the list of witnesses which bound the Crown was given in, a witness was obtained who, if sooner discovered, would have placed the prosecution beyond all risk, and brought home in the most conclusive manner the guilt of the parties. Were they, then, prepared to extend the principle of a rule which often risked the attainment of the ends of justice? But on what principle, he asked, had their ancestors framed that rule? Not for the purpose of enabling the accused to cross-examine with more effect, after obtaining a knowledge of the characters of the witnesses: but solely in order to enable the accused to collect, from the names and places

of residence of the witnesses, the nature of the specific acts which the prosecutor had to substantiate. That was the specific reason for which the rule had been framed. If a knowledge of the names and residence of the witnesses were necessary in this case before the accused could prepare a defence, then the same information must be necessary in other cases, whether civil or criminal; so that if the rule once became extended, the whole principle of the law of evidence must undergo alteration from beginning to end. He repeated, that he saw no end to the alterations in the form of judicial proceedings which they must admit, if they agreed to the motion of the noble and learned lord opposite.

Lord *Holland* said, that it had been his fixed intention to take no part whatever in this troublesome, tedious, and he would add, disgusting business, in which their lordships had been pleased to involve themselves; but the noble earl who had just spoken, and his noble friend on the cross-bench, had introduced topics and matter so extraneous to that immediately before them, that, notwithstanding his previous intention, he could not refrain from occupying the attention of the House on the present occasion. He should have thought, indeed, that the consistency or inconsistency of any noble lord as to the particular mode of proceeding to be adopted in hearing evidence in this disgusting case, could have afforded no opportunity to a minister of the Crown to have risen in his place in parliament, and pleaded against the best law which it was the blessing of this country to enjoy. It was still natural, perhaps, that some individuals should see a connexion between two subjects which to him seemed so distinct and immeasurably distant from each other. It was natural, perhaps, that this distinction should be altogether overlooked by members of that party in the state, who, for the last forty years, saw nothing in the public feelings of the country that was not fraught with treason to their power, and that treason always of a more malignant dye than any which had ever preceded it. Those who had entertained this opinion of the events of the last forty years did not now, in attempting to fix the imputation of inconsistency on him to whose powerful professional exertions, combined with that most glorious act of their provident ancestors, he (lord Holland) and many other men who fearlessly thought with him upon public affairs, owed in all probability what they now actually enjoyed of life and property. Great as was the importance of the present case which it was the pleasure of their lordships to entertain, ten thousand times greater, would he assert, was the consequence of that act, which now seemed to many of their lordships so full of imperfections. He could not sit in silence and hear an act so full of value impugned, without entering his protest against all the facts and all the reasons which induced the noble earl opposite to inveigh against it in the speech which he had just delivered. It seemed, indeed, to be the opinion of the noble earl, that a man's being acquitted of a charge of high treason proved —what?—not the man's innocence, but that the law of high treason itself was inconveniently framed for the attainment of the ends of justice. Did he mean to say that there was no protection for government from the machinations of traitors, where such a law for high treason existed as that which prevailed in this country? If he did, then for the same reason there was no protection for the authorities in Scotland, where such a law had for ages, if he was rightly informed, been in force; where the parties in all criminal cases mutually exchanged lists of witnesses at different intervals, and derived a reciprocal benefit from the practice. There might, perhaps, be some inconvenience felt by the prosecutor, in particular cases, arising out of the practice; but was there any inconvenience to the justice of the country, commensurate with the safeguard of the subject arising out of it? That he thought, was the only question which enlightened men had to consider in reviewing the operation of that most wholesome act. Upon that point he was ready to join issue with the noble earl opposite; but he repeated, he could not for an instant sit silent and hear such a description given of the act as it had pleased the noble earl to state his own judgment dictated. Equally prepared was he, to contest the practical fact of the experience of the last forty years, so strongly contended for by the noble earl, as furnishing an argument against the principle of the measure. He denied that that experience showed this law to be either insufficient or improper. Did those acquittals alluded to, justify the opinion pronounced by the noble earl, or did they not, on the contrary, show that to that law his majesty's subjects owed the security they enjoyed for their lives.

and properties. On the subject immediately before their lordships, he should not now be provoked to pronounce any opinion. As to the charge of inconsistency arising out of it, he feared the greater part of their lordships would, before the business was over, be more or less tainted with that imputation. The noble earl opposite (Harrowby) had so far acted candidly, that he admitted it was much better to indulge an expectation which counsel were led, though perhaps on too slight grounds, to entertain, rather than disappoint it, when it was considered as likely to prove advantageous to an accused. In that view he entirely concurred with the noble earl; but he was still at a loss to see how the imputation of inconsistency applied in the case. It might, he could easily conceive, prove inconvenient to comply with this promise or supposed promise; but how it was inconsistent he had yet to learn. Their lordships loudly talked of not departing from the forms and principles of justice; but they forgot altogether, that neither in form nor in substance were they acting judicially. They were acting throughout legislatively, both in the principle of the bill and all the collateral parts of it. They were, therefore, he contended, in every step they took upon the bill, entitled to exercise their judgments upon the policy, the necessity, and the expediency of the measure; not that they were to act unjustly, but that they were, while they kept in view whatever of justice was involved in the case, not to lose sight of the expediency and necessity of it, which were essential parts of their consideration. Above all, they should, in justice to themselves, in justice to the illustrious defendant, if two modes of attaining the same object were open to them, select that which had the more liberal appearance towards the accused, and which was more consonant to the general rules of justice. With reference to the course pursued by his noble and learned friend (lord Erskine), and which had drawn down upon him a charge of inconsistency, he would not, in the presence of his noble and learned friend, say all he thought of the conduct he had pursued throughout this unfortunate business; but he could not refrain from saying, that in the midst of these calamitous proceedings, he felt heartfelt pleasure and gratification at seeing his noble and learned friend stand up at his advanced stage of life, and with renovated vigour exert the energies of his mind, to uphold the great fabric of those laws, the integrity of which at an earlier period he asserted with the vigour of youth, and with all the powers of a genius unexampled in his own times, and never exceeded in any. The attachment which he felt towards such a man acting still in the decline of life upon the same noble principles which rendered his name illustrious at its outset, even degraded as the House stood in this disgusting business, compensated him in some degree, by the gratification and delight which it elicited, by the display of so much personal worth and virtue, for the humiliation which he had to endure from a contemplation of other matters. His noble and learned friend's fame would go down unsullied to posterity.

The Earl of *Limerick* was of opinion, that the permission already granted the counsel against the bill, of cross-examining at their own time and discretion, gave them every opportunity of acquiring information which they could desire respecting the witnesses for the bill. He thought, therefore, the learned lord's motion unnecessary. The time, in fact, between the first production of a witness, and the cross-examination, as he understood it was to be permitted, would give every opportunity which could be required for scrutinizing the characters of the witnesses.

Lord *Calthorpe* thought the motion of the noble and learned lord the only one calculated to extricate the House from the dilemma in which it was placed by the proceeding that had already taken place; otherwise, he feared, their lordships' proceedings would be in their duration interminable. Any alternative which could extricate them from such a situation, he thought it desirable to adopt. Any thing which could rescue them from such an investigation as that in which they were about to embark, in a manner that afforded no prospect of the termination of their proceedings, he was most anxious to see adopted by their lordships. With that view he should certainly vote for the learned lord's motion, as better than that which had been adopted.

The *Lord Chancellor* said, that as far as he was able he should try and give effect to their lordships' instructions in the proceedings in this case, whatever his own opinion happened to be upon any one of those instructions. He still appre-

hended the great evil of an interminable duration of these proceedings, from the operation of the permission granted in the motion which had been just adopted by their lordships. They had by that motion, the grounds of which it was not for him now to discuss, placed the accused in a more favourable situation than any other accused was placed in, in the history of their jurisprudence upon any legislative measure. Upon a comparison of the proposition now made by the noble and learned lord with that just adopted, he certainly had, of the two, stronger objections to the motion now before their lordships.

Lord *Erskine*, in explanation, entreated that their lordships would even now pause before they went further into this proceeding. If they still determined to go on, he should, in the progress of the business devote whatever experience he had in judicial proceedings to guide him through their lordships' forms.

The House then divided upon lord Erskine's motion, when the numbers were—Contents, 61; Not-contents, 164: majority against the motion, 103.

List of the Minority and Majority on the Earl of Harrowby's Motion.

Those marked with an asterisk voted in favour of lord Erskine's motion to adjourn.

CONTENTS.

Duke of *Glocester
Wellington
Northumberland
Dorset
*Portland
*Hamilton
*Devonshire
Bedford
*St. Alban's
Beaufort
*Grafton
*Argyll
*Leinster
Marq. of *Lansdown
Queensberry
Bath
Cornwallis
Headfort
Anglesea
*Downshire
Huntley
Earl of *Derby
Huntingdon
*Suffolk
*Thanet
*Essex
Cardigan
*Albemarle
Coventry
*Jersey
Balcarras
Rosebery
*Oxford
*Cowper
Stanhope
Pomfret
Harrington
Warwick
Buckinghamshire
*Fitzwilliam
*Hardwicke
*Darlington
*Ilchester
Delawar
Bathurst
Harrowby
*Grosvenor
*Fortescue
*Carnarvon
Liverpool
Kingston
Longford
Mayo
Donoughmore
*Rosslyn
Ross
*Grey
Nelson
Mulgrave
Harewood
*Minto
Verulam
Morley
Beauchamp
*Blesinton
Westmorland
*Darnley
*Besborough
Courtown
Clare
Cassilis
*Breadalbane
Aboyne
Visc. Lake
*Anson
Melville
*Duncan
*Hood
*Torrington
*Bolingbroke
*Clifden
Abp. of York
Bp. of Cork
Oxford
Glocester
Peterborough
Chester
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Lord *Dacre
Zouch
Audley
Howard
*Say & Sele
*Belhaven
Middleton
*King
Grantham
*Holland
*Ducie
*Hawke
*Foley
Walsingham
Berwick
*Gage
Grenville
*Auckland
*Dundas
*Yarborough
*Downe
*Gwydir
*Bolton
*Alvanley
*Erskine
Gambier
Hopetoun
Combermere
Hill
Prudhoe
Hutchinson

NOT-CONTENTS.

Duke of York
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Richmond
Rutland
Newcastle
Montrose
Athol
Marq. of Conyngham
Sligo
Winchester
*Ely
Camden
Exeter
Thomond
Stafford
Lothian
Tweedale
Northampton
Donegall
Earl of Pembroke
Denbigh
Stamford
Winchilsea
Shaftesbury
Abingdon
*Plymouth
Rochford
Home
Kellie
Dartmouth
Aylesford
Macclesfield
*Waldegrave
Ashburnham
Portsmouth
Egremont
Harcourt
Chatham
Romney
Mount-Edgecombe
*Carrick
Digby
Mansfield
Caledon
Mountcashel
Craven
Chichester
Limerick
Powis
Gosford
Manvers
Orford
Lonsdale
Cathcart
Whitworth
Brownlow
St. Germain's
Bradford
Morton
Moray
Galloway
Glasgow
Lauderdale

Visc.	Exmouth	Rodney
	Sidmouth	Somers
	Curzon	Montagu
	Sydney	Suffield
	Hampden	Kenyon
	*Hereford	Amherst
Bp of	Tuam	Douglas
	Canterbury	Selsea
	Landaff	Rous
	Ely	*Calthorpe
	Exeter	Rolle
	Bangor	Bayning
	St. Asaph's	Northwick
	London	St. Helens
Lord	De Clifford	Redesdale
	Clinton	*Ellenborough
	Forbes	Arden
	Saltoun	Sheffield
	Gray	Manners
	Colville	Harris
	Napier	Eldon Chan.
	Scarsdale	*Carrington
	Dynevor	

Counsel were accordingly called in, and informed, "That under the special circumstances of the case, the House consented to the counsel for the Queen proceeding in their cross-examination in the manner they proposed; namely, that they may be at liberty to cross-examine witnesses immediately after the examination in chief, to such extent as they may think proper, with liberty to call back the witnesses at a future time, for such further cross-examinationas they may desire."

Then *Meidge Barbara Kress* was again called in, and further cross-examined by Mr. Brougham as follows, through the interpretation of Mr. Kersten.

Where do you live now? In a private house.

Where? I cannot say this.

How far is it from this place? I came in a coach; I do not know how far it is.

On which side of the river is it? We came over a bridge.

Who lives in the house with you? Only the people of the house.

Where does your brother live? He is with me.

In the same house? Yes.

Has he given you any money? No.

Did he never give you any money? No, at no time, my brother did not.

Did your brother at no time ever promise to give you any at a future time? Not my brother, he cannot promise to me any thing.

Why cannot your brother promise to you any thing? How could he promise to me any thing.

Do you mean that he has no money of his own? Only that which he took from home.

What trade is he? A potter.

Is he a workman, or has he a manufactory of his own? He is a master potter.

What is your father? My father was a serjeant in the army; he is dead.

Is your mother alive? No; I have a father-in-law now.

What is your father in-law? He is a master weaver, but he no longer carries on his business, because he is too old.

Did any person give you any money before you came over here? No; except the gentleman in Carlsruhe, those ducats.

Did no body promise to give you any money afterwards? No.

Did nobody promise to give you any money after you should come back to Carlsruhe from England? Nobody promised me any thing.

Will you swear upon the oath you have taken, that no person promised to give you any advantage of any sort after you came back from England? Nobody has promised me any thing, but they said I should have the damagement when I came over.

Mr. *Goltermann*.—"Compensation for the time I had lost."

How much were you to have for compensation? [*Through Mr. Kersten.*] I cannot say what I should get.

Who was it that told you you should get compensation? The minister, our minister.

Which minister? I said to him I must be compensated for the loss of my situation.

Mr. *Goltermann*.—"That I should lose my place by it, and I must receive some compensation for it."

What minister are you speaking of? [*Through Mr. Kersten.*] M. de Berckstett; that gentleman told me that if I would not go voluntarily, I should be forced.

Whose minister is he? I cannot tell this.

Is he not minister of the duke of Baden? I do not know whether he is minister of foreign affairs, or for the interior.

Mr. *Goltermann*.—That she does not know whether he is minister in the country, or ambassador.

Mr. *Brougham*.—Do you mean that you do not know whether he is one of the duke's own ministers, or a minister at the duke's court? [*Through Mr. Kersten.*] Probably; I do not know, I only know his name; I have not yet had any business with that gentleman, except just this.

How did you happen to see that gentleman? They have called me.

Do you mean that he sent for you? Yes.

Did he not come to the rooms in the inn where you lived? Not M. de Berckstett.

Did not M. Von Reden come to look at the rooms in the inn while you were there? I did not see him.

Do you know that he was there? I cannot tell, I have never seen him.

Did you see, after the princess left the inn, any other gentleman come there to look at the room? I have seen nobody except Herr von Grimm, who came in the rooms and walked about there.

Mr. *Goltermann*.—He lodged in the inn.

How long had Herr von Grimm lodged in the inn before the princess came there? I

cannot say this, I have not paid any attention to this, I had other business.

What part of the house did Herr von Grimm lodge in? He lived in that house, in No. 13, and his brother in No. 14; before the princess arrived he lived in No. 12 and 13.

Did he not give up No. 12 for the accommodation of the princess? Yes, as much as I have seen.

Did he not return after the princess left, and go into No. 12 to look at what was there? Yes, he ran about just when the rooms were left open, and he took again the room afterwards.

Was there any body with him when he came to look? When he ran about in the rooms there came two other gentlemen, one of them was his brother.

Who was the other? I cannot tell this.

Was he a German or an Englishman? I do not know this neither, I never heard them speak, and I did not pay any attention to it.

What is Herr von Grimm? As much as I could hear, he is the ambassador of Wirtemberg.

What is his brother? I cannot tell this neither.

How oft had you seen the princess before the day that you say you went into the room, and saw her with Pergami? I have seen her very little, I had too much occupation to pay attention to it.

Did not you wait upon her at breakfast in the morning? No.

Did you never see the princess at breakfast in the morning? Once I came in, and when I was to take the mantle to clean it, I have seen her.

Was it after that time you saw her in the room with Pergami in the evening? Yes, afterwards.

Do you mean that you saw the princess in the room with Pergami, after you had been called in at breakfast, or that you had been called in at breakfast after you had seen the princess with Pergami? Yes, afterwards they called me, for they had spilt something which I was ordered to clean away.

Do you mean that it was after you had been called in in the morning to wipe up that slop, that you saw the princess and Pergami in the evening? Yes, afterwards.

Where did the princess dine on the day on the evening of which you saw her in the room with Pergami? I cannot say this, I do not know.

Did she dine in the inn? No, I have not seen it, they have not dined with us.

Did they ever dine in the inn, during the whole time they were in your house? I have never seen it, with respect to the dinner; I only know about the breakfast, I have seen them only at breakfast.

Will you swear they dined once in the inn during the whole time they were there? I cannot swear to that, because I have never seen that they dined there; I have not paid attention to it, I had other business.

Will you swear that the princess and Pergami did not dine at court every day they were in your house living? I cannot know this, whether they dined at court, or where they dined.

Did you see the princess and Pergami, and the rest of her royal highness's suite go to court, during the time they were there? I have seen them twice going away in a carriage, but whether they went to court I do not know.

Have you seen the grand duke come to the inn, to wait on her royal highness? The real grand duke, and several other gentlemen, I have seen come up to the princess.

Mr. *Brougham* to Mr. *Goltermann*.—Have you ever examined this witness before, out of Court? Mr. *Goltermann*.—Never in my life.

Did you never see her before she came here? Mr. *Goltermann*.—Never in my life.

You never saw her till the other day? Mr. *Goltermann*. I never saw her till she came to the bar on Friday last.

Have you ever seen her since out of Court? Mr. *Goltermann*. Never.

Mr. *Brougham* to the *Witness*.—What do you mean by come up to the princess? [*By Mr. Kersten.*]—I can say nothing aboutit.

Do you mean that they came to pay their respects to her royal highness? Yes, probably they came to make their visit or court.

Did you ever happen to see them so come more than once while the princess was there? Only once; it was just when I went down stairs, that the gentlemen went up stairs.

Mr. *Goltermann*.—"And then I retired up stairs."

Mr. *Kersten*.—She repeated that she went down stairs.

Did you ever happen to see them so come more than once, while the princess was there? [*Through Mr. Kersten.*]—Only once.

When was it? The other gentleman came with him.

Where did her royal highness receive the duke? I saw that they went up stairs, and then I went up to the third story.

Do you mean to represent that the grand duke and his suite passed to visit the princess at the moment that you were coming out of the room? No; I have seen that they went up; then I went down stairs, and again up.

Do you mean to say, that the grand duke and his suite came immediately after you left the room where the princess was? I cannot say whether it was on the same day, or whether it was sooner or later.

Will you swear that the grand duke did not come on that same day to pay his respects? I cannot say; I am not alone in the house; and I had occupations: I have not paid attention to it.

Who was it that gave you the order to go

to the room to carry water? Nobody did tell me to do so; it was my business, which I knew, and I did it every evening.

When you looked at the bed one morning as you have stated before, was it at the time you were making the bed? Yes, when it was to be made; for I had nothing otherwise to do with the bed.

Had you made any of the other beds in the house that morning before? No; this was the first which I had made, just when they left it, and except the beds of my master and his wife which I made.

When you say, "when they had left it," do you not mean to represent only when whoever had slept in it had left it? In No. 12, or where do you mean?

In No. 12? As much as I know, I know that the gentleman slept there, and I went to make the gentleman's bed.

Was there or not any body else in the room at the time you made it? There was nobody in the room, except a servant in a green coat who came into the room.

Did he come into the room while you were cleaning it out? Yes, it was when I was in it, he came to assist me in turning the mattress; I asked his assistance when he just was there; he came to assist me in turning the mattress.

Who was the servant in green? I cannot tell you this; there were two of them, but I have not observed them so closely, I do not know to whom they belonged.

Have you ever seen them before? The servants.

Yes the servants? I never saw them before; only at the time when the princess was there, then I saw them running about.

Have you ever seen them since? No, I have seen none of them since she left it.

Did you ever see any of them at any other time when you were making the bed in that room except that day? I do not know; I never came into that room except just in the morning, therefore I do not know whether they were there or not.

Did you not make that bed every morning? Yes, that bed in No. 12 I made it every morning.

Did you see one or both of the same two servants on other mornings there when you were making that bed? Now and then I have seen one of them in the rooms.

Did any of them assist you in making the bed any other day except that day of which you now speak? Yes, now and then one of them came into the rooms and assisted me; sometimes he remained, sometimes he went out again.

Have you any doubt that those two were servants in the princess's suite? The servants came with her; probably they belonged to her, otherwise they would not have come with her.

Did they not go away with her, as well as come with her? Yes, as much as I have seen, they went all away with her as they had come.

Was one of them a Jager? I do not know this; one of them had a green coat, but whether he was a Jager I have not questioned him.

When you had that conversation with Mr. Berckstett, about a compensation for coming over here, what did you say to him when you demanded it? I said to him, "your excellency, must I go; for if I do not must, or if I am not obliged, I cannot leave here; I am a married woman, and I have other business to attend to."

What did he say in answer to that? He said, "If I would not go I would be forced;" and then I answered, "well, then I will go, and God may settle the business as he pleases; my husband will not allow me to go."

When you asked for a compensation for coming, what did the baron say? He said he could not give me any thing; I should leave it to the gentlemen, he had no doubt they would recompense me when I came here.

Did he not also say that you should be recompensed when you got home again from hence? No.

Had any of your family a promise of any thing? No.

Will you swear that no promise was given to your husband, or any of your family? I can swear that nothing has been promised to me, and I do not think that anything has been promised to my husband, for otherwise he would have told me so.

The Interpreter was desired to state whether the witness had used the same word which he had translated in one instance "recompence," and in another, "compensation"; he stated that she had not; that in one case she had used the word "entschadigung," and in another, "belohnung."

Was the sixteen or eighteen ducats you got for going to Hanover an entschadigung or a belohnung? I cannot say; it was for my going away from the post to Hanover, therefor it may be an entschadigung, or it may be a belohnung.

Mr. *Kersten*.—Entschadigung means compensation, belohnung means recompence.

Which do you reckon the ducat was, that the gentleman gave you for seeing him in the morning; was it an entschadigung, or a belohnung? He gave me this for the time lost, therefore it may be an entschadigung for my lost time, for my trouble in going there.

How far was it that you went from the inn? It may be half a quarter of an hour's walk; I cannot say exactly.

How long did you remain with the gentleman; the ducat gentleman? The first time it was the servant who showed me in; I did not stay long, because I had no time to stop.

How long did you stay the second time? Not long at all, for I was just on the stairs

when he gave me the ducat, and I went away; I had no time, I had other business to do.

Were any of the gentlemen that you saw upon those occasions called Mandeville, or Mandevil, or anything of that sort? I cannot say; I cannot recollect the name.

What do you generally get from a person who sleeps a night at an inn, as chambermaid, when he goes in the morning? It comes to a common purse, and the Keller receives it, that is the waiter.

How much have you ever got, for your share of that purse, for half a year? It was divided every quarter of a year.

How much have you divided for a quarter of a year? Sometimes 18, sometimes 20, 30, according to the number of strangers we have had in the inn.

Eighteen, twenty, or thirty what? Ducats? Florins.

Do you know a place called the glass-house, near the gate of Carlsruhe? Glashuit.

Mr. *Kersten.*—Glashuit is a manufactory of glass, where glass is fabricated or made.

Is there not a place that goes by that name, the glass-house, near the gates of Carlsruhe, that serves as a pleasure garden? Yes, many people go there.

Have you ever been there? I walked there with my husband, for pleasure.

Have you ever been there without your husband, before you had a husband? Yes, with the person who became my husband.

Were you ever there with any-body else, or alone? With my husband, and with more servants and maids.

Have you ever been there without your husband, and with any-body else, or alone? Never; never with any-body else but with my husband.

Were you ever there alone? No, never alone.

Before you had a husband? Never, except with my husband.

Before you knew your husband? I went there with my brothers and sisters, and that was by day, never at night.

About what time in the morning used you to make the beds in the inn at Carlsruhe? Just when the gentlemen rose and had come down.

Do you mean to say, that you always went into the room as soon as the gentlemen went out of the room? Many times I went immediately; many times later.

After you had seen the person that you took for the princess in the evening in Pergami's room, did you not go to see whether the countess Oldi was in her room? No; I carried immediately the water to No. 5, and there they were standing; at No. 5, the countess lodged.

Did not you go to No. 5, in order to see whether the countess was there? Yes, I went just there.

Did you not go there for the purpose of seeing whether the countess was there? I went and saw just that it was the princess.

Did not you go there for the purpose of seeing whether the countess was there? No, I went not there; I just carried the water there.

Will you swear you did not go to that room, upon the oath you have taken, in order to ascertain whether the countess was there? I went just there to carry the water, because I must do this, as I did it every evening.

Will you swear, by the oath you have taken, that you did not go to that room in part for the purpose of ascertaining whether the countess Oldi was there? I cannot say this; I did not go for that purpose: I have never thought that I should be aked about this.

Mr. *Goltermann.*—She says, "I have never had any thought about this: I never thought that I should be asked about it."

Will you swear, upon the oath you have taken, that you have never told any person that you did go to the room of the countess, for the purpose of seeing whether she was there or not? I cannot recollect it; I have no thought about it, whether I have said it to any body.

Will you swear that you have never had any conversation with any person about your going into madame Oldi's room that night? I can swear that I never had a conversation with any body about this matter, namely, that I went there for the purpose of ascertaining whether the countess Oldi was there or not.

Will you swear that you have never had any conversation with any person about your going into madame Oldi's room that night? Nobody has asked me, nobody told me any thing; there was a gentleman asked me whether I had been in the room; I told it to the gentleman who had asked me.

Will you swear that you have never, since you came to this country, had a conversation with any body about your going to madame Oldi's room? No, I have had no conversation with any body; has any body asked me.

Mr. *Goltermann.*—She says. "how do you mean, whether any body has asked me."

Has any body asked you? [*Through Mr. Kersten.*] Yes, two gentlemen have asked me.

Have you had any conversation with any other person, besides those two gentlemen about what passed that night? In Hanover they have asked me, and at Frankfort; I cannot tell it otherwise.

Who asked you at Hanover? An ambassador, who he is I do not know; he asked me.

And at Frankfort, who asked you? I do not know who he was, it was a gentleman.

How long have you ever been at Frankfort at one time? Five or six days.

Were you ever at Frankfort at any other time? No, never, except just when we went to Hanover, then we passed through Frankfort.

Whom have you spoken to upon this subject since you came to this country? Two gentlemen have come to see me, but who they are I do not know, I cannot tell.

Have you ever spoken upon this subject with any other person in this country, besides those two gentlemen? No.

Do you know a captain Jones, or a major Jones in this country? No, I know nobody of that name.

Did those two gentlemen that you talked to, speak German? As much as you [the Interpreter] do here, one of them.

What was his name? I do not know.

Was he a German, or an Englishman? I do not know, he spoke German; but whether he was a German I do not know.

Besides the house where you now are living, have you ever been in any other house since you came to London? No, I have been no where else, except here in this House.

When were you first in this House, what was the first day you were in this House? On Friday last week.

Had you ever been here before that? No.

When you say you never were in any other house in this country, except where you live, do you mean that you never lodged in any other house, or that you never were in any other house at all? When we arrived we went into an hotel only for a few hours, and then into the house where I lodge.

Have you ever been for any other space of time, however short, into any other house except those two? No, no where else.

How many servants were there in the inn at Carlsruhe, where you lived? There were two waiters, and the post-boys, and a groom.

Was there any other chambermaid besides yourself? I was the only one.

How many maids came with the princess? I have seen no more than two and the countess.

Examined by the *Lords*.

Earl of *Mansfield*.—When the courier came forward, and ordered a broader bed, did he give any reason for ordering that broader bed?

Mr. *Brougham*, requested leave to submit, through the House, that what the courier said could not be received as evidence.

The question was withdrawn.

When you made the bed in the morning, and observed the stain, had the bed the appearance that two persons had slept in it? No, the cushions or pillows lay one upon the other, so far as I recollect.

Earl of *Limerick*.—You have said that you went to make the bed when they had left it, or just as they had left it, what do you mean by they? When I made the bed there was nobody in the room, I had seen nobody when I made the bed.

Lord *Hood*.—Had you any conversation with any person respecting your observation of her royal highness and Pergami? I never have made any observation to any body.

You expressed yourself to have been frightened and that the princess jumped up; upon that fright that you experienced at seeing the princess jump up, did you communicate to any one that fright that you experienced after that event? I spoke to nobody about it, except M. Grimm asked me about it afterwards.

How could M. Grimm know any thing of that, unless you had communicated it to some one?

The question being objected to was withdrawn.

How long after the princess left the inn were those questions asked you? As soon as they were away, then I made the room, and Monsieur de Grimm asked me about it.

What did Grimm ask you? He asked me into his room, and about it, and then I was unwilling to say it, but he asked me again, and then I said it.

What were you asked? He asked me, have you never seen any thing.

The Earl of *Lauderdale* prefaced his examination of the witness, by observing, that since the examination had begun, he had not availed himself in any question that he had put, of the knowledge he had acquired as a member of the secret committee. He regretted much the rancour of feeling which possessed the public mind on the present occasion, and which existed to a degree that he had never witnessed on any former occasion.

When you saw the princess at breakfast, do you recollect who was in the room? They were all in the room, the gentlemen and the ladies.

Can you state what gentlemen and what ladies? The countess, and the other gentleman who was with her.

You have said that it was in the course of your duty to carry water to the chamber No. 12, did you the next night after seeing the princess there, carry water in a similar manner to No. 12? No, it was then shut, and I placed it before the door of the room.

Mr. *Goltermann*.—She adds to that, "when the room was not open, I have placed it before the door."

After the night in which you saw the princess in that room, did you generally find the door shut or open when you carried water? It was shut.

Was it generally shut? Yes, many times it was shut, many times it was open.

Do you mean by the door being shut that it was merely closed, or that it was actually locked? I intended several times to go in, but it was locked, and I could not go in.

Whose room was No. 10? The princess's.

Did you carry water to that room? No, the maids took care of that.

The following questions were put at the request of Mr. Brougham:

About what time of the day was it that you generally took the water to the room and found it locked? Never by day, only in the evening: except when they asked for it in the morning, then I carried it.

Do you mean to say that you found the door locked twice, or often? I did not observe it so exactly; twice or several times.

[The witness was directed to withdraw.]

Then *Giuseppe Bianche* was called in, and sworn through the interpretation of the Marchese di Spineto.

Mr. *Denman* objected to the evidence being given through the interpretation of the marchese di Spineto, not on the ground that he had not interpreted truly, but that he was informed he had seen the witness before, and had interpreted the examination taken out of court by the attorney on the part of the prosecution; he conceived, therefore, that the rehearsal of the evidence which had taken place before, might in some degree affect the mode in which the evidence might be given now.

The Earl of *Liverpool* could see nothing in the objection. The marchese di Spineto had been retained as interpreter for the government, and if the attorney had employed him out of the House, it was no reason why his very useful and satisfactory services should now be dispensed with. The interpreter of the other side, would be present to assist, should any occasion arise; and it was certain that the House would lose a great deal if any other individual than the marchese were employed between the witness and the House.

Counsel were directed to proceed with the examination.

Examined by Mr. Parke through the interpretation of the Marchese di Spineto.

What countryman are you? I am an Italian Swiss, that part of Switzerland that belongs to the kingdom of Italy.

Of what part of Italy are you a native? In the department of Tessin and in the town of Faido.

Where do you reside? In Venice.

What is your employment when you are at home? The guard or the door-keeper of the inn Grande Bretagne.

How long have you been in that employment? Fourteen years.

Do you remember at any time seeing the princess of Wales at Venice? I have seen her twice.

When was the first time that you saw her royal highness, in what year? About five years ago.

Was she at the inn the Grande Bretagne? She was for three days, and then she passed to a house adjoining.

What persons were with the princess at that time? She had a chamberlain, a second chamberlain, three couriers, and I think two more domestics.

Do you remember who were the couriers? One was the Brunswick courier, another was a Bartholomew Pergami, and the third was Theodore Majocchi.

When the princess was at the other house, had you occasion to go there sometimes? I had, every day.

What was your employment, for what purpose did you go there? Because it always happened that I should carry something.

Do you recollect a jeweller being in that house one day? I do.

Did the princess purchase any thing from him? She bought a Venetian chain; a chain made in Venice, which is called a manina of gold.

Was that during dinner-time, or before or after dinner? The jeweller came at the end of the dinner, when all the company were going to get up from dinner.

Did you see Pergami in the room at that time? He was always behind the chair of her royal highness to change her plate, in the dress of a courier.

Did you see the princess and Pergami together, after the rest of the company had left the room, on that day? I did.

What passed between them when you saw them together? She, after having got up, took the chain from her own neck and put it round the neck of the courier; the courier afterwards took it off from his own neck, and put it round her neck; and then he took her by the hand, and accompanied her into the room where they went to drink coffee.

Did they go out of the room together? Yes, together; but Pergami afterwards left the room to go to dinner.

Did you observe any thing more pass between them than what you have mentioned? I did not.

After the chain had been put the second time upon the princess's neck, did they go immediately, or did they stop a little longer in the room? They went immediately away.

Did you see Pergami at Venice the second time the princess was there? The second time I did, when she came to Venice from Trieste, three or four days, and lodged there.

Had Pergami any decorations, any orders, the second time you saw him at Venice? He had a string of orders jewelled, or ornamented with jewels.

Had he any title? I heard him called by all baron Pergami.

When you saw the princess and Pergami go out of the room the first time they were at Venice, in what manner did they go out, or in what manner did they conduct themselves

towards each other before they went out? He took her by the hand, squeezed her hand, and went to the door; she went in, and he went to dinner.

Did you see the princess and Pergami the second time they were at Venice? I have seen them come in and go out every day.

How many days did you see them? Four days.

Did you see them on the canals at Venice? They went twice a day on the canal.

Were they alone in the boat, or were other persons with them? There was always somebody with them, except twice, when they went out alone.

When you saw them going out of the house together, were they walking together, or were they separate from each other? They were always arm in arm; then he also gave her his hand to step into the gondola.

Mr. *Cohen.*—He adds the words "as I did."

What do you mean by those last words, "as I did"? [*Through the marchese di Spineto.*]—I do not understand the question.

When you saw them going out of the house together, were they walking together, or were they separate from each other? They were always arm in arm.

Did you ever give your arm to the princess, as well as Pergami? Never the arm, but I took her by the hand to assist her in going into the gondola.

Cross-examined by Mr. *Denman.*

Did you see that done with the golden chain through the key-hole? I was in the same room where they dined.

Then the princess and Pergami must have seen you standing by? I was there.

Have you been to Milan to be examined to these facts? I have been.

When did you first go there? I left Venice on Christmas Eve.

Was that the first time you went to Milan to tell the story? That was the first time.

What money or compensation had you for going from Venice to Milan upon that occasion? I received nothing else but my expenses on the journey.

Did you receive a sum of money, or did some person pay for you? A commissary came to take me from Venice, and he paid the expenses of the journey.

Had you nothing for your loss of time? Nothing.

What are you to have for coming here? To come here I have received nothing else but my travelling expenses.

What bargain have you made; what pay are you to have for coming here? None.

Do you mean to swear that you are to receive nothing for a compensation for your loss of time in coming here, and in staying here? They have told me that I am to receive nothing, except to come to London to tell the truth, and this summons I have obeyed.

What are you to be paid for telling the truth? I have made no agreement nor condition; if they give me something, I will take it; if not, I will go without.

Do you expect nothing? I expect nothing; for this reason I have brought money with me to go back, if they let me.

Who sent you here; who induced you to come here? Colonel Brown from Milan.

Did you see the advocate Vimercati? I have seen Vimercati the first time, but not the second.

Did you say nothing to either of those persons about a compensation for your loss of time in coming to England, and staying there? I have said nothing of that, except that at Milan, whilst they were speaking about several things, I said that I would not come any more, because I was afraid.

Are those two the only persons whom you have seen upon the subject of your coming over here? And a certain Andreazzi, who is the same commissary who came to Venice to fetch me.

How long have you been in this country? Just a fortnight to-day.

Are you now a waiter or a porter at the inn at Venice? If I return back quickly, if not I shall not continue in that service.

Supposing you do not return quickly, but lose your place, do you not expect to have it made good to you in money? I expect nothing; because I know nothing; and what displeases me is, that I shall be obliged to go and beg for another master.

Do you wish to persuade their lordships you have made no bargain whatever, and that you do not expect to receive any compensation for that which you must in that case lose? I have come here to tell the truth without any pay, and what am I to expect.

Did anybody tell you lately to give that answer here? Nobody, I have never spoken of this business with any body.

Whom have you lived with in this country? In company with twenty or twenty-five more.

Was Theodore Majoochi one of them? He is.

Will you swear you have had no conversation with that man about the evidence you were to give here? Yes, I can swear.

Did you not remind Majoochi that you were the person who was there when the princess came there? The first time he saw me, because we were together; but the second time he remained behind to pay attention to the coaches.

Have you not reminded Majoochi, that you knew one another at Venice, when the princess first came there? Yes, I told him so, because we went to drink together some afternoon.

Have you breakfasted every day with Majoochi for the last fortnight? We breakfasted and dined all together.

Do you sup together? Those who want to sup, sup; those who do not want to sup, do not sup; whoever is present takes a supper, if he has an appetite.

Did you pass the whole day together? Not the whole day, because Majoochi is with his wife, and sometimes he comes out, and we walk together.

Do you remember the name of the jeweller whom you saw bring this golden chain? Yes, Fana.

Is he one of those five-and-twenty people who dine together? No, he is a merchant who is at Venice always.

Where does he live at Venice? He has a shop in the Old Procurazia, in the Piazza St. Marco.

Had the jeweller left the room when the princess and Pergami remained behind? He had gone away some little time.

Had all the company left the room? They had.

How long had they left? They had just gone before; three or four minutes.

Was the door shut after them? It was.

How came you left behind, shut up with those two persons? As people went out of the dining-room, they shut the door to prevent the wind; but I was with the servants, to take away the things from the table.

What had become of the other servants? There was only one of the waiters within, in the other room, to get the coffee ready.

Do you mean the princess's servants, or the other waiters at the inn? He belonged to the inn.

Who sent you here; how came you here in England? Colonel Brown.

What power had colonel Brown to send you here? He has sent his commissary Andreazzi to Venice, to tell us that we must go to Milan, to pass over to England,

What power had the commissary Andreazzi, to send you away from your place to England? This I do not know, because he said that if we would not come willingly, we should be made by force.

Has Andreazzi any office at Venice? None, he also is a Swiss of Bellenzona, in the Canton of Tessin.

How does that give him any power to send you to England? He has no authority, but he told me if we came willingly it would be better, if not, we should one day be made by force to come; and I rather preferred to come willingly, than by force.

What do you mean by being better? I mean that it is better to come, than to be accompanied by force.

Did you see any ambassador at Venice? No other but the English consul.

Who is that? Mr. Hoppner.

Did Mr. Hoppner desire you to come? I never spoke of this business with him.

Nor any body in his employment, any secretary or servant? On the contrary, I wished to call upon him and speak to him, but he was in the country.

Re-examined by Mr. *Parke*.

Did you see Majoochi at any time, between the time that you saw him at Venice, and when you saw him again in England?

Mr. Denman objected to the question, as not arising out of his cross-examination.

Where had you the conversation you speak of with Majoochi? What conversation?

Where you reminded him of having met him at Venice? Walking below.

Was that since you came to England? Yes.

The witness was directed to withdraw.

Ordered, that the further consideration and second reading of the said bill be adjourned till to-morrow morning ten o'clock.

HOUSE OF LORDS.

Wednesday, August 30.

The order of the day being read for the further consideration and second reading of the Bill of Pains and Penalties against her majesty, &c., counsel were called in.

Then *Paolo Raggazoni* was called in, and sworn, and examined as follows by the Solicitor General, through the interpretation of the Marchese di Spineto.

Are you a native of Italy? I am.

In what part of Italy do you reside? At Biango.

Is that in the territory of Varese? It is.

What are you by business? A mason.

Were you ever employed as a mason to do business at the Villa d'Este? I was.

Had you any persons employed under you, or were you a mere workman? I was a master mason.

How many men had you employed under you? 20, 25, 30, 8, 12, according to the work.

During any part of the time you were employed doing work at the Villa d'Este, were the princess of Wales and Pergami residing there? No; when I went to the Villa d'Este they were at Bordo Vico.

Was that at the Villa Villani? Yes.

Did they afterwards come to the Villa d'Este while you were working there? They came.

Did you ever see the princess and Pergami, upon the lake at the Villa d'Este? I have seen them.

Was there any canoe there? There was.

Did you ever see them together in that canoe? I have.

Alone, or with other people? Alone.

Once, or more than once, or several times? More than once, more than twice.

Did you ever see them together in the garden? I have.

Have you ever seen them alone in the garden? Alone.

Once, or more than once, or several times? I have seen them more than once; but once I have seen the princess sitting in a chair with

wheels or castors, and the baron behind pushing her to make her go.

After you had seen, in the manner you have described, the princess in the chair and the baron pushing or pulling that chair, did you afterwards see any body else in that chair? I have not; I have only seen them alone.

At the time when you saw the baron pushing the chair in the manner you have described, was there any body else with them, or were they, the baron and the princess, alone? The baron and the princess were alone.

Did you see the baron get into the chair? I did; the baron and the princess made the chair get forward.

You have stated that at the time when the princess was in the chair, the baron pushed or drew the chair; at the time when you saw the baron in the chair, who pushed or drew the chair? The princess pushed the chair.

Are you to be understood that they were at that time alone? Alone, yes; Verona came and brought the chair and went away, and then the princess and the baron remained alone.

Have you at different times seen the princess and Pergami walking in the garden? I have seen them several times walking in the garden.

Have you seen them alone walking in the garden? Yes, alone.

In what manner have you observed them walking, were they separate or together? Arm in arm walking.

Have you seen that frequently or only seldom? More than once, more than three times, I have seen it.

Do you recollect, at any time, being at work in a grotto in the garden? I do.

What work were you doing in that grotto? I was making a cornice to a round room.

Was there a room adjoining to that? Behind there was.

While you were at work, in the manner you have described, did you hear any body in that adjoining room? Yes, I heard somebody enter.

After you had heard somebody enter in the manner you have described, what did you hear? I heard somebody come in, and I put myself under the scaffold to see who it was, and I saw Pergami and the princess come; there were two figures, the figure of Adam on the right and the figure of Eve on the left, and Adam had the leaf of a fig below the navel, then they looked at those figures of Adam and Eve, and they laughed together.

You have told us that Adam had a fig leaf, was there any fig-leaf to Eve? Yes.

Can you state how they were fastened on? They were fastened with a little bough; they put the leaf aside and looked at what was underneath; by "ramino," I mean a wire that went all round the figure; and that the princess and Pergami put aside this fig-leaf to see what was underneath.

Where were you yourself during the whole of that time? I was behind a pilaster to look what they were doing; and when I saw that they were coming towards me, then I mounted on my scaffold, and worked at my cornice.

Are you to be understood that those two figures were in the room next to that in which you were at work? They were behind the room where I was at work, by ten or twelve yards.

What kind of communication was there between the place where you were at work and the place where those two figures of Adam and Eve were standing? Here was the room of Adam and Eve, then followed a small corridor at the bottom; there were two doors, one to the right and another to the left, and in the middle there was a pilaster; and I placed myself behind the pilaster to look; and behind there was the round room where I was at work.

Did you place yourself there in consequence of your hearing somebody in the room where the figures were? I did.

When they removed the leaf in the manner you have described, what did they do? They talked together, and looked sometimes at one, sometimes at another, between themselves, laughing.

Do you remember an entertainment that was given at the Villa d'Este on St. Bartholomew's day? I do.

At what hour of the night or the morning did you go home to go to bed to a place called Il Paese? Sometimes I went to bed at one o'clock, sometimes at half-past one.

The question refers to the night on which this entertainment was given; do you remember going through the garden for the purpose of going to a place called Il Paese? Yes, I remember one evening I was going to Il Paese to sleep.

Is that place you have mentioned part of the Villa d'Este? Yes, it is; immediately after the Villa d'Este there is a garden, after which there is a park, at the end of which there is Il Paese, and there is wood on both sides.

Do you know a person called Domenico Brusa? I do; we have been together.

Do you know one Enrico Bai? I do not.

Upon the night which has been mentioned, when you were going to the place you have described, who was with you? Domenico Brusa.

As nearly as you can recollect, what hour was it you passed through the garden of the Villa d'Este with Domenico Brusa? About one or half-past one.

Interpreter.—The Italian and the English time is reckoned in a different manner.

Do you reckon by the Italian or the French hour? The Italian hour.

Interpreter.—We reckon the hour, not from twelve to twelve, but from one to twenty-four; the Sun, according to the Italian mode of calculation, always sets at half an hour past the three-and-twenty, the remaining half hour

is generally allowed for twilight, and that completes the twenty-four hours.

Mr. Solicitor General to the Marchese.—Will you translate into English time the time?

Interpreter.—Then I must know the time of year, taking it at Bartholomew's day, it would be about half-past nine at night, according to the English mode of calculating.

To the Witness.—When you were passing through the garden did you see the princess and Pergami? They were not in the garden, they were at the bottom of the park, sitting upon a bench.

Were they alone? They were alone.

Did you ever attend at the theatre at the Villa d'Este? I have been there.

Did you ever see the princess and Pergami act together upon that theatre? I have.

Have you seen that more than once? Only once.

Do you recollect what part was played by the princess? The princess was performing the character of a sick woman, and the baron went to visit her.

In what character did the baron go to visit her? He went to feel her hand, and to perform the part of a doctor.

The Solicitor General stated, that there was some doubt whether in Lombardy they calculated by the Italian method, and that it was very desirable to know, whether the hour to which the witness referred was half past nine or half past one; he therefore requested permission to put a question upon that point.

When you say it was about one or half-past one that you saw Pergami and the princess sitting in the manner you have described, according to the best of your recollection, how long was it after sun-set? The sun had been setting for an hour and a half.

Mr. Cohen,—My lords, I was born in Lombardy myself, and I know this is the mode of reckoning.

Cross-examined by Dr. *Lushington*.

Have you ever been examined before? No; I have been examined at Milan.

When was that? In the year 1818.

By whom? The advocate Vimercati.

Was any one else present? There was.

Who? I do not know.

Do you know colonel Brown? I do not.

How came you to go to Milan to be examined? The government sent for me to go to Milan to be examined, and I went.

What government? The government of Milan sent for me that I should appear before the police.

Did they send an officer of Justice to you, or how? They sent Restelli, a courier.

Who is Restelli? A courier.

Had you known Restelli before? I had.

Where? At the Villa d'Este.

Did he formerly live with the princess of Wales? He did.

Was he in her service as a courier? Yes; he was chief groom or courier, he belonged to the stable.

What passed between you and Restelli when he came to you? He told me that I must go to Milan, by an order of government.

Was that all he told you? He told me that I must go to Milan, because the government wanted me; I said I could not go, and he answered that I must go, because government wanted me.

Was that the whole, did he say nothing else to you? No.

How long was he with you? A little.

How long, as nearly as you can recollect? He came once to ask me.

How long, as nearly as you can recollect, was he with you? No time at all, he came to tell me, that I was obliged to go to Milan, and then went away immediately in a chaise.

Did he tell you what you were to go to Milan for? He did not, he told me nothing.

When you went to Milan, for what purpose did you go? I went to tell the truth, because he told me, you must go because you have been living with the princess at Como, and therefore you must go, and tell what you know.

Then he did tell you you were to be examined respecting the princess of Wales? Yes; he told me nothing to say, but merely, you have been there at work, and therefore the government want to see you, and you must go to be spoken to by the government.

Had you ever before that time spoken to any body respecting the circumstances you have now stated? No, I can swear this, that never any body came for this purpose.

Had you ever before that time, spoken to any body respecting the circumstances you have now stated? No.

How many workmen have you employed at the Villa d'Este? 10, 12, 14; when the baron told me, "I want more masons," I sent for more, and I had 18 or 20; when he was not so pressing I sent them away.

Were all those persons sent to Milan to be examined? No, not one of them.

When you were examined at Milan, was what you said taken down in writing? It was taken in writing.

Did you sign it? I did.

Were you sworn? Yes, I took an oath at Milan.

Who swore you? The advocate Vimercati.

In what form? He told me, "Are you ready to swear upon the truth," and I said, "Yes, the truth."

Were you sworn upon the gospels, or in what manner? He told me, you are then ready to come and swear to the truth, I said yes, I am ready to come and swear to the truth.

Were you sworn upon the cross at that time? Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati.

Who was present besides Vimercati at that

time? There were two or four more people who were present, but I do not know who they were, I have given my examination, but I do not know who they were.

Were they Englishmen? I believe that they were Englishmen.

Have you ever since that time seen the deposition you signed? Yes, I signed my name, I gave it in, and then I went away.

Have you ever seen the deposition you signed since that time that you signed it? No, I have not seen it since.

Have you been ever examined since that time? No.

Has no one spoken to you about the evidence you were to give since you have been in England? No.

What did you receive for going to Milan to be examined? I have received nothing, not even this, which means not even a pin, not even a drop of water; I took my horse, I mounted my horse, and I went.

Were you then told that you were to be sent to England? Yes, they told me that they were going to send me to England.

When was that? Now, when the government sent for me.

When you were examined at Milan, did they then tell you you were to be sent to England? No, they told me that I should be obliged to go and swear before a tribunal.

What did you say in answer to that? I said yes, I was ready whenever they ordered, because I was going to tell the truth.

Are all the bills paid for the work you did at the Villa d'Este? They have not been all paid, but there is a little still owing to me from the chief mason.

Is any thing owing to you from the princess of Wales? No, nothing.

From whom did you receive the money for your bills for the princess's work? The chief mason, the head mason paid me, gave me money, I was working, and then whenever I wanted money the chief mason gave it to me; I had nothing to do with the princess.

Who first directed you to come to England? The government, who told me to come to England, for I did not wish to come, for I am a married man, and my wife is with child, and I have an old father, and I did not wish to come, and the government told me I must come, and it would be a business of a month or six weeks.

Did you come by yourself, or with any one else? We have been together, but I know no one, for I am alone.

Did you come with a courier? I did.

From Milan? From Milan.

What was the name of the courier? Restelli.

Do you not know the names of any of the other persons who came with you? No, they attended to their business, and I attended to mine, because I did not wish to come, and was even crying.

Do not you know the names of any one of those persons that you travelled with? I know the names only of three, Brusa, Bianchi, and Enrico Bai.

Have you continued to live with them since you have been in England? I have.

Where? I do not know, it is a place just by; I do not know what it is, for I never have been in this place before; if I knew the place I would tell you.

Is it close by? It is near.

Was Brusa with you yesterday? No.

From the time that you signed your deposition at Milan, have you had any conversation as to these facts, till to-day, with any person whatever? I have been speaking with nobody.

You have never spoken with any one, except at Milan, from the time the circumstances you have stated took place? I never said any thing to any person; I never have opened my mouth with any person, and as I never have appeared before in a tribunal of justice, I said to the curate of my country, that I did not wish to come, and he told me that I might go.

Have you been employed by the princess of Wales to make a monument? No, I was told by the architect Ratta to come and work at the princess's; so I went and worked there for two years.

How many times have you seen Restelli since the year 1816? Never; I never have seen him since he came to speak to me.

Re-examined by *Mr. Solicitor General.*

Is Enrico Bai, whom you have mentioned, also in the neighbourhood? He is here.

You have told us that Restelli came to you, in order that you might go to Milan; who was it that came with you as courier to this country? From Milan to Holland, Restelli; and from Holland here, English people.

Look at this gentleman (Mr. Bourchier); were any questions asked you in the place near this court, as to the circumstances to which you have now deposed?

Mr. Brougham objected to this line of examination.

The counsel were informed, that the answer of the witness on cross-examination may be read to him, and that he may be called upon to explain it.

The short-hand writer of the House being directed to read the answer of the witness referred to, stated, that conceiving the examination of this witness to have been closed, he had sent out the notes to be copied.

The Solicitor-General applied to their lordships, that the witness might stand by until the examination of the next witness; and that in the meantime he should have no communication with any other person.

Mr. Brougham acceded to this proposal.

Their lordships directed that his further examination should be postponed for the present. The witness was directed to withdraw.

Then *Gerolamo Mejani* was called in, and sworn, and examined as follows by Mr. Parke, through the interpretation of the Marchese di Spineto:

Are you a native of Italy? I am.

Of what profession are you? A writer.

Were you at any time in the service of the princess of Wales? I was.

For what length of time? About two months.

Was that at the Villa d'Este? At the Villa d'Este.

In what capacity were you employed by the princess of Wales? As a director or superintendant of her gardens.

In what year was it you commenced your employment? At the end of the year 1816, and in the beginning of the year 1817.

Do you know a person of the name of Pergami? I do.

Did you know Pergami before he was in the service of the princess? I did, at Monza.

In what circumstances was he when you knew him? He was an excise officer, that is to say, he belonged to an Excise office, and went to put the Excise mark upon the casks of wine under the order of the officer.

In what circumstances was he as to money? When I have known him he was a poor man.

How long was that before you saw Pergami in the princess's service? I have seen Pergami in the service of the princess at the Villa d'Este, but I do not know at what time he went into her service.

How long is it that you knew him in the employment you have stated before you saw him in the princess's service? I had known him between two and three years, but I am not precise as to the length of time.

When you were at Villa d'Este, had you opportunities of seeing the princess and Pergami together? I had.

Did you see them often together? Often, every day I saw them.

What was their conduct towards each other when you have seen them? They behaved towards each other with the utmost friendship, as if they were married.

When they were walking together, did they walk separate from each other or arm in arm? Arm in arm.

Did you ever see them together in a canoe? Yes, I have seen them several times, at different times.

Were they alone in the canoe or was some person with them? Alone, he and her royal highness together.

Did you ever see them together riding in a carriage? I have.

Did you ever see them together in a carriage called a padovanello? I have.

Describe in what manner they sat in the padovanello? Pergami was sitting in the back part, and the princess on his knee.

Was anybody else in the carriage? No one else.

Did you ever see Pergami and the princess in the kitchen together? Several times.

What were they doing in the kitchen? They were eating on the table there, where the cook was used to eat.

When you saw them, were they eating from one plate or two? Sometimes from one plate, sometimes from two.

Do you know the gate leading from the little garden into the great garden? I do.

Do you remember seeing the princess and Pergami together near that gate? Yes.

How far were you off from them when you saw them together? Twenty or thirty paces; I have not reckoned them.

Did you observe them do any think to each other? I have seen them once kiss.

Was that on the mouth? I was behind, and I have not made this observation.

Was that on the mouth? They made a motion (imitating it); whether they kissed on the mouth or not I do not know.

Was it on the mouth or the cheek? I was behind, and I have not been able to see whether he kissed her on the mouth or on the cheek.

Have you heard the princess and Pergami conversing together, talking to each other? Yes, I have seen them several times, they always were talking to one another.

In what way did they talk to each other? They sometimes spoke French, which I could not understand, except that once I heard a word, which was "mon cœur," (my heart).

Cross-examined by Mr. *Tindal.*

When were you first applied to upon this subject? I want to know whether it is meant when I was examined or spoken to; but at Milan I was spoken to.

When did any person first apply to you before you went to Milan? They sent me a person whom I do not know, he told me that they wanted me at Milan upon this subject, but I do not know the person.

When was that? In February, 1818, eighteen months ago; February or January, I do not know exactly which.

Had you mentioned to any body before that what you knew upon the subject? Nothing; I did no longer think of it.

Where were you living at the time that person applied to you? At Monza.

How far is that from Milan? Ten miles.

What situation in life were you in at that time? A writer.

What do you mean by a writer? I kept account books.

Whom did you keep accounts for? For all the affairs belonging to the park, for the prince Beauharnois, the viceroy of Italy.

Did the person who applied to you, come more than once? Once only.

Did you go immediately to Milan? No, because I had something to write and to do, and I made him wait a day.

Did he tell you what you were to do when

you got to Milan? Nothing; he only told me that the advocate Vimercati wanted to speak to me, nothing else.

Had not you the curiosity to ask what it was about? I asked, but he would not tell me.

Why did you go then, not knowing any thing about the matter? He told me when I was at Milan, for then I asked him for what motive, and he told me for this, and this.

Then you went to Milan without knowing what you were going for? They had told me, that the advocate Vimercati wanted to speak to me, but they did not tell me the motive till I reached Milan.

Did you know Vimercati before? I have heard his name mentioned, for he was a friend to a friend of mine, advocate Marochi; but I never had known him.

Whom did you see when you got to Milan? Nobody.

What persons did you see or go before on this subject when you got to Milan? When I reached Milan they told me the hour at which I ought to call at the House of Vimercati; there was this Vimercati, two or three other persons whom I did not know, and two other Milanese, whom I did not know.

Were those two or three persons whom you did not know English? They told me they were Englishmen, but I did not know them.

Did you hear the names of them? No, then I did not; afterwards I heard their names.

Was the name of one of them colonel Brown? I heard it afterwards, but then I did not know him.

Was the name of one of the others Mr. Powell? I never heard of him but after five or six months, but at that time I did not know him.

Do you now know that one of the persons you saw there was Mr. Powell? I have known him here.

How long did you remain at Milan? Two days.

Was that the only time you went there upon this business? The only one.

Were you examined on each of those days, or only on one? On the last day they examined me.

Was your examination taken down in writing? Yes; they made me even sign it.

Did you also swear to it? They had made me to swear to some before any tribunal, and if I had known any such thing I should not have signed it.

Did you take that oath upon the cross? No; they only told me that here we must come and tell the truth, and that we must say the truth, neither more nor less, only what I have seen with my eyes, without lies.

What did you receive for your journey to Milan, and staying there two days? They paid my expenses and gave me twenty francs, and I was obliged to add a franc of my own, out of my own pocket.

When did you leave Italy for the purpose of coming here? On the 29th of June.

Who came with you? We were twelve; the names of them all I do not know; I know them by sight.

Was Theodore Majoochi one of them? No; his wife alone.

Do you mean that the wife came with you, or with Theodore Majoochi? Yes, the wife came with us.

Who first told you that you were to come to England? A certain Restelli came to tell me so.

Who is Restelli? Restelli was a man in the service of the princess.

Was he in the service of the princess when he came to you? No he was no longer in her service.

Do you know in whose service he was at that time? I do not know.

Do you know why Restelli quitted the princess's service? I know nothing of that.

Did you know him while he was in her service? I have known him in the service of the princess, and I have also known him before, when I was at court.

Recollect yourself; do you not know that he was dismissed from the princess's service for stealing corn?

Mr. Parke objected to the question.

The counsel were directed to proceed.

The question was put to the witness.

I know nothing of this.

Who spoke to you to come to England besides Restelli? Colonel Brown.

Did Restelli take you to colonel Brown? Restelli came to tell me so on the 15th of June, but on the 27th a letter came which obliged me to go to Milan.

What agreement did Restelli or any other person make with you for your coming here?

Mr. Parke objected to the question.

Mr. *Tindal*.—What agreement was made by you with Restelli for your coming over to England?

Mr. Parke objected to the question, as assuming that an agreement was made.

The counsel were informed, that, in strictness, the question could not be put in its present form.

Mr. *Tindal*.—Was any agreement made between you and Restelli for your coming over here? No agreement.

Was any agreement made by you with any body else? I have made no agreement.

What was your occupation at the time you left Italy? I was a writer as I stated before.

Are you to be understood that you have made no agreement with any one upon the subject of your coming here? I have made no agreement whatever.

Have you had any promise made to you that you shall receive any thing? None.

Then have you left Italy and your business

without any promise of any compensation? They have made me no promise of compensation, or any thing else.

Have you seen Paturzo since you came here? I do not know Paturzo.

Have you seen Majoochi since you came here? I have seen him.

Has he told you how he was examined here? Nothing, he told me nothing.

Have you never spoken to him on the subject? We were talking together, and he said you will go up stairs, and then you will see how many people there are.

Did not he also tell you, that there were two sets of counsel, one on your left hand and the other on your right? I did not hear that.

Has no other person put that into your head? Nobody.

Did Majoochi dine with you yesterday? Yes.

And sup with you at night? Yes, he did sup last night.

Have you lived together every day since you came to England? No.

Have you seen him most days? I have seen him since the time I have been here in this place.

You stated that you saw the princess and Pergami in a canoe upon the lake of Como; are there not many villages and houses surrounding the lake of Como? There are villages and houses, many.

Is there not a great traffic kept up, in passing backwards and forwards across the lake? Boats are passing.

There are no roads round the lake, are there are? There are foot-paths where the country people go.

Is not the regular traffic or intercourse from one side of the lake to the other, kept up by boats? There are always boats going to and fro, some with wood, some with charcoal.

Was the carriage that you described the princess and Pergami to be in, an open carriage? It is an open carriage, it is a small chair.

Re-examined by Mr. *Parke.*

What size is the lake of Como, what length and what breadth? The length begins from Como, and goes straight forward, the breadth is a mile, or a mile and a half.

Do you know about how many miles the length is? Beginning from Como to Cevennes is nearly sixty miles they say, but I have not measured them.

The witness was directed to withdraw.

Then *Paolo Raggazoni* was again called in, and the following questions were read over to him.

"Have you been ever examined since that time? No.

"Has no one spoken to you about the evidence you were to give since you have been in England? No.

"From the time that you signed your deposition at Milan, have you had any conversation as to these facts till to-day, with any person whatever? I have been speaking with nobody.

"You have never spoken with any one, except at Milan, from the time the circumstances you have stated took place? I never said any thing to any person; I have never opened my mouth with any person: and as I never have appeared before any tribunal of justice, I said to the curate of my country, that I did not wish to come, and he told me that I might go."

Lord Chancellor.—Do you mean to say, that you never have been examined in England previously to your appearance here this morning? There was somebody who took me into a room, and asked me, whether it was true that I had said so, and I said "Yes."

When was that? I do not know the day.

Earl of *Liverpool.*—About how many days ago? It was last week; I do not know the day, but it was last week.

The following question was put at the request of Mr. Brougham.

Had the gentleman who took you into that room a paper in his hand? Yes, he had a paper in his hand; and he was reading from this paper; and put me the question, and asked me whether it was so; and I said "yes," when I knew it was true.

The following question and answer were read over to the witness.

"Have you ever been examined since that time? No."

Earl *Grey.*—You have stated that you have signed a deposition at Milan: you have also stated that you have not since been examined: what do you mean by stating that you had not been since examined? I was thinking that you were asking me whether I had been examined at Milan before I came to England, and I was not examined there.

Then *Paolo Oggioni* was called in, and sworn, and examined as follows by the Attorney General, through the interpretation of the Marchese di Spineto:

What countryman are you? Of Lodi.

Were you ever in the service of the princess of Wales? I have been.

In what capacity? Under cook.

How long were you in that service? Almost a year.

At what places? At the Villa d'Este and the Barona.

About how long ago is it that you quitted the princess's service? In the year 1817.

Did you know Pergami? I did.

Where did you first know him? At Lodi.

How long ago? Between the year 1805 and 1809.

In what situation was Pergami when you first knew him? I have seen him about Lodi, and then I have seen him in prison.

Where did you see him in prison? At Lodi.

Mr. Denman submitted to their lordships, whether this could be evidence.

Was Pergami in the princess's service while your were in her royal highness's service as under cook? He was.

What was Pergami's situation in the princess's house, or service, when you were there? Baron.

You say he was a baron, what was his situation in the household of the princess at that time? He commanded over the household.

Have you ever seen during the time that you were in the service of the princess, the princess and Pergami together? I have.

Where have you seen them together? Going out and in the kitchen.

When you have seen them walking together, in what manner were they walking? Arm in arm.

Have you ever seen the princess riding on horseback or otherwise? I have.

Has any one been with her, when you have seen her riding? The baron and one of the servants.

You have said that you have seen the princess in the kitchen with Pergami, in what manner have they come into the kitchen? They came arm in arm.

For what purpose have they come into the kitchen? Sometimes to come and eat something.

By sometimes, do you mean many times, or few? Many times.

You say they came for the purpose of eating, had they any thing to eat in the kitchen? They had,

When you were at the Barona, did you ever know any balls given by the princess there? I have.

Who used to attend those balls? The country people of low rank in life.

Did the princess use to dance with those persons? No, she danced by herself, and sometimes with Pergami.

Did she dance at the same time with the country people and low people, who were there at those balls? She did.

Do you know the wife of the inn-keeper of the St. Christopher? I do.

Was she at those balls? She came twice.

Do you know any of the other women who came to those balls? There came the daughters of the farmer who had hired the Barona.

What do you mean by hiring the Barona, do you mean the tenant of the farm? Yes, the man who hired the land of the Barona; the tenant.

In what rooms did the dancing take place? In the dining-room.

Were any of the other rooms used upon those occasions? There were.

What other rooms? It was a room next to it which led on to the stairs that led into the room of the princess.

At those balls did any of the nobility of the neighbourhood come? No.

At the Barona have you seen the princess and Pergami together? I have.

Where? In the kitchen, and walking many times.

When you have seen them walking, were they walking alone, or was any other person with them? I have seen them alone.

Do you know a person of the name of Mahomet? I do.

Have you ever seen him perform any dance? I have.

Have you at any time when Mahomet has been performing his dance seen the princess? Her royal highness was present.

In what manner did Mahomet dance or perform at that time? He did so. [The witness made a motion snapping the fingers.]

Were those the only motions he made? I have seen him several different times always make the same gesticulations.

Have you seen the princess present upon more than one occasion, or only one occasion when Mahomet was performing this dance? I have seen her more than once.

Where? At the Villa d'Este and the Barona.

In what part of the house, or was it in the house that the princess was present? Twice in the kitchen, at other times in the court.

Upon those occasions when the princess was present, did Mahomet do any thing with any part of his dress? He took his breeches and made a kind of a roll of it, and made it so, [making a motion in the front of his person.]

In what position was that roll? With the breeches twisted round before, so [putting his hand to the front of his breeches].

When the princess was present upon those occasions, did she look at Mahomet? She did.

Did she say or do any thing upon those occasions? She laughed.

Cross-examined by Mr. *Wilde*.

When did you leave the princess's service? In the year 1817.

Were you discharged for drunkenness? No.

Did you go away of your own accord? When she set out to go to Rome, I was left behind, with other six servants.

Do you mean that you were discharged at that time? I was; but my discharge was when she set out, till a further order, and this further order never came.

Did you receive any pay from the princess after that? No, I did not.

What service did you next enter into? In the house of a priest; I went into the service of a priest, but I do not remember his name,

Where did he live? He was the minister of the great hospital at Milan.

Where did he live? He dwelt in Milan.

How long did you live in his service? A year.

Living a year in his service, do you mean that you do not know his name? I do not remember the name.

When did you enter into that person's service? When I left the princess.

How soon after the princess left to go to Rome? After six months.

Do you mean that you were out of service for six months after you left the princess's service? Now I remember the name of the priest is called Borbona.

Do you mean that you were out of service six months? I was.

Where did you live during that time? At my house.

Where? At Lodi.

How did you support yourself during that time? From my house.

How did you support yourself during that time? Economically, with my money.

Are you a married man, or were you a married man at that time? I was.

Have you any family? One child.

Do you mean that you have saved money enough to live without work for six months, and to support your family? I do.

Are your wife and child over in England with you? They are not.

Where are they? At Lodi.

In what capacity were you with the person you have mentioned? A footman and cook.

How long did you continue in that service? Almost a year.

What was your next service? The vice-prefect of Monza.

Where were you when you were first aplied to to give information upon this subject? I was with the architect Albigi.

Where does he live? At Milan.

Who applied to you? I was applied to by the police.

Had you ever mentioned any of the circumstances you have stated to-day, before that application? I had not.

Are you quite sure that that application was made to you before you had said any thing to any body upon that subject? I never said any thing, except when I was sent for, when I knew nothing of this.

Were you examined at Milan? I was.

How often? Once.

Was your examination put into writing? It was.

Have you seen that examination since? I have not.

Have you ever been examined since, either at Milan or in England? I have been examined also in England.

Had the person who examined you any paper to examine you from? He did write, but I do not know what paper he had; he wrote down what I said.

The question is, whether the person who examined you read a paper? He did.

Who applied to you to come to England? The government at Milan.

Were you at that time in your place with the architect? I was.

Have you given up your place? They have taken me to bring me here, and so I was obliged to give it up.

Do you know a person named Restelli? I do.

Have you had any communication with him since you left the princess's service? I have not.

Do you know Majoochi? I know him here.

How long have you been here? I do not remember how long I have been here; I do not remember how many days.

Have you seen Majoochi every day since you have been here? I have.

And Restelli? No.

You have been describing some dances of Mahomet; who were present when those dances were performed? The princess and the baron.

Were you present? I was.

Was any body else? There were many others, but I paid no attention to who they were.

Re-examined by *Mr. Attorney General.*

You have been asked, whether the person who examined you in England had a paper in his hand, and whether he read it; did he read it aloud to you, or was he reading it to himself? He read it to himself.

You have said that you do not know how long you have been in England; have you been in England more than once? Yes.

Do you remember how long ago it is, the first time that you came here? I do not remember the day, I have it not in my mind.

Where did you come to when you first came to England? To the inn.

Do you know the name of the inn where you landed the first time you came? I do not know, because it was in the night.

Did any thing happen there the first time you came?

Mr. *Denman* said, that for the sake of their lordships, and in order to save time, he objected to this question. It was unconnected with the case. If their lordships thought the question ought to be put as to what passed on witness's arrival in England, he would not object to it.

The *Attorney General* observed, that it was for their lordships to decide whether he ought to ask the question. Witness was asked the period of his arrival in England, no doubt with a view to some particular object, not to waste their lordships time, and he conceived he had a right to re-examine on the same point.

Mr. *Denman* said, that he had no objection to any inquiry relative to witness's second arrival in this country, but if this question was to be urged as a precedent, to be referred to for particular purposes, he objected to it. It was not decent to put it; but decent, or indecent, he contended that it was wholly irregular, as it had nothing to do with the

question. He called their lordships' attention to it, not because the question was likely to elucidate any thing, but because it was giving the go-by to the real question, and raising a new question to which he would have no opportunity of replying. Besides, it would give his learned friend an opportunity of leading their lordships' mind from the real case.

The Attorney General was directed to proceed.

Did any thing occur upon your first coming to England which enables you to recollect about what time it was that you came here? I do not remember when I arrived in England.

Is there any circumstance which will revive your recollection? The first time I came to England I landed at Dover.

How long did you remain in England then? A night and a day.

Where did you go to then?

Mr. Denman objected to this question.

The *Attorney General* contended that he had a right to put the question. The witness had been asked how long he had been in England, and where he now was, with a view to show that the witnesses were living together; he therefore had a right to show why that was now the case.

Mr. *Denman* said, that his learned friend's statement took him completely out of court. He was sure their lordships would not now try that collateral question, namely, what circumstances operated upon the witness's mind to induce him to join the other witnesses? This might produce an injurious impression towards his client. The attorney-general, who was there only to see justice done to all parties, ought not to put the question; at all events, he begged it might not be put until their lordships had formed their judgment on it.

The counsel were informed, that if it has been the tendency of the cross-examination, for purposes hereafter to be explained, to argue upon the consequence of those witnesses being all kept together, a re-examination might be admitted to show the cause of their all being kept together.

Whereupon the following extracts were read from the evidence:

"How long have you been here? I do not remember how long I have been here, I do not remember how many days.

Have you seen Majocchi every day since you have been here? I have.

And Restelli? No."

The counsel were informed, that the cross-examination did not lay a sufficient ground for the above questions.

Examined by the Lords.

Marquis of *Lansdown*.—On the occasion on which you have described Mahomet to have used certain gesticulations in the presence of her royal highness twice in the kitchen and once in the court, can you state from your own knowledge, whether on those occasions Mahomet had been sent for by her royal highness for that purpose? Her royal highness never sent for Mahomet, her highness altogether did not send for Mahomet.

You have described that Mahomet twisted part of his breeches into a roll, do you know what that roll was meant to represent? It seems as if it was the yard of a man, the membrum virile.

When this was performed, did her royal highness retire, or did she remain at the place where she was? She remained there and laughed.

Earl of *Liverpool*.—When you state that her royal highness did not send for Mahomet on the occasion of his using certain gesticulations, do you mean that her royal highness did not send you for Mahomet, or that you know that her royal highness did not send for Mahomet at all? I never saw any person sent to fetch him, and I do not know whether any person was sent to fetch him; I know that she came when he was dancing.

How long did her royal highness remain present during the time that Mahomet was using these gesticulations? She remained some little when she came under the arm of the baron, but how long she staid I paid no attention, because I attended to my work.

Lord *Combermere*.—Did any thing particular happen to you upon your first arrival at Dover? Yes, much.

State what that was?

Mr. *Denman* objected to this question. He submitted, that unless the circumstance alluded to could be stated to have happened in the presence of her royal highness, or could, in some way or other, be connected with her agents, their lordships could not, according to the received rules of evidence which governed the inferior courts, allow the question to be put. Their lordships, he conceived, must at once see the propriety and necessity of objecting to a question of this nature.

Mr. *Brougham* said, their lordships had always been ready to give a certain liberty to counsel in objecting to questions that appeared irregular; and, if they looked to former trials in that House—he spoke particularly of regular trials—they would find that the party prosecuted had been allowed so to object, by the indulgence of their lordships.

The counsel were informed, that unless it could be shown that the princess was connected with what happened at Dover, what happened at Dover was not evidence on this inquiry.

The Earl of *Lauderdale* conceived, that the decision on the propriety of the question must depend on what followed it. For instance, something was said about the receipt of money; and then the witness was asked, whe-

ther money had been offered at Dover? This laid the foundation for other inquiries, which could not be made, unless originally some ground was formed for proceeding.

The *Lord Chancellor* observed, that the noble lord who put the question might give reasons for asking it, and it would then be for the House to decide whether it should be put or not. But, at present, it was so general, that the House knew not how to apply it.

Earl *Grey*.—No foundation having been given for this question, I conceive the learned lord on the woolsack has very properly stated that it cannot be put. This point has already been decided on the re-examination: and though I am ready to contend for the fullest latitude of examination by your lordships, I think you will find it a matter of sound discretion to pause before you allow a question to be put, which the House, on the decision of the judges, has already decided cannot be regularly put.

The question was withdrawn.

Lord *Falmouth*.—You have mentioned balls given by the princess; who asked the company to those balls, did the princess, or were the servants allowed to ask their friends? I do not know who invited the company; they came, but I do not know who invited them, because I attended to my work.

Are you to be understood that they were not servants' balls? They were not.

Lord *De Dunstanville*.—Did you consider the motions of Mahomet as the customary motions of Mahomet in his dances? Yes, he always made this gesture, as a custom he had in his dances.

Earl of *Darnley*.—You have stated that at the exhibitions of Mahomet many persons were present; were women present as well as men? No women.

Then *Louisa Demont* was called in and sworn, and examined through the interpretation of the Marchese di Spineto.

Mr. *Williams*.—You do not understand English, do you? Tres peu.

How long have you been in England? Treize mois.

Have not you talked English at all? Tres peu.

Have you not been in the habit of speaking English? [*In French, through the Marchese di Spineto*]. I cannot speak it; I understand it very little.

Examined by the Solicitor General, through the interpretation of the Marchese di Spineto.

Of what country are you a native? Of the Pays de Vaud, Switzerland.

Are you of the Protestant, or the Catholic religion? I am a Protestant.

Did you enter into the service of the princess of Wales? I have been.

Where did you reside at that time, just before you went into her service, what was your home? At Colombier.

Where did you first go, for the purpose of seeing the princess of Wales? To Geneva.

Did you make any engagement with the princess of Wales at Geneva, or did you make an engagement after you had seen her at Geneva? I had engaged myself to live in her service, with her maitre de hotel, for five years.

Was that at Geneva? Yes.

Did you enter into her service in fact at Geneva, or did you afterwards enter into her service at any other place? I entered her royal highness's service at Lausanne.

Did you proceed with her royal highness from Lausanne to Milan? I did.

You have stated, that you entered into the service of her royal highness for five years; in what situation or capacity did you enter into her service? First femme de chambre.

State when you arrived at Milan of whom the suite of her royal highness consisted? Gentlemen, or all together.

State first the gentlemen? There were four gentlemen, sir William Gell, Mr. Craven, Dr. Holland, and Mr. Hesse.

State what ladies composed her suite at that time? Lady Elizabeth Forbes.

At what place did you lodge upon your arrival at Milan? In an inn.

What was the name of that inn? The Royal Hotel, I believe.

Do you remember a person of the name of Pergami, who was engaged at that place in the service of her royal highness? I remember it well.

In what situation or capacity was he engaged to serve her royal highness? Courier.

As nearly as you can recollect, how many days was this before her royal highness quitted Milan? About a fortnight; I do not recollect exactly.

During the fourteen or fifteen days to which you have spoken, did Pergami wait at table upon her royal highness? He waited at table.

From Milan, did her royal highness pass through Rome in her way to Naples? Yes, she passed through Rome.

Do you recollect a young person of the name of William Austin being with her royal highness? I do.

Before the princess arrived at Naples, where was William Austin in the habit of sleeping usually? Generally he slept in the room of her royal highness.

Do you recollect in what house her royal highness slept on the night before she entered the city of Naples? In a country house.

Do you recollect whether William Austin slept in the room of her royal highness in that country house? I cannot positively say about that night, but generally he was in the habit of sleeping in the room with her royal highness.

Had her royal highness, about that time, any conversation with you about the place of sleeping of William Austin? Her royal highness told me, during that same evening, in

the country house, that William Austin had become too big a boy to sleep in her own room, and he must have a chamber to himself.

Up to this period, of which you have been speaking, did Pergami breakfast and dine with the other servants? He dined always at our table, the table at which I dined.

Do you know what room was allotted for Pergami upon the first night of his arrival at Naples? I do not know.

Do you remember the room in which he slept on the second night of your arrival at Naples? Yes, I do.

Was that room near the room which was occupied by her royal highness? It was near.

Was there an internal communication between the two rooms? There was one.

What was there between the two chambers? A small cabinet with a fire-place, and a passage.

What was there between the two chambers? A small cabinet and a passage.

Could you pass from the room of the princess into the room of Pergami, by going along that passage, and through the small cabinet? Yes.

Was there any door communicating from that passage to any other part of the house? There was a door that led out of the passage.

When that door was closed, and when the door of her royal highness's apartment was closed, and the outer door of Pergami's room was closed, could any body have access to those rooms and that passage? No, there were only those doors.

Did her royal highness, on the evening after her arrival at Naples, go to the opera? Her royal highness told me whilst I was dressing her that she was going to the opera.

Did she return early or late from the opera that evening? It seemed to me that she returned early.

Upon her return, did she go into her bed-room?

Mr. Williams objected to the question.

Upon her return, where did she go? I found her in her bed-room.

Were you in the bed-room yourself? I was not there, but she sent for me.

Upon your arrival in the bed-room of the princess, what did the princess do? Her royal highness crossed the passage, and went into the cabinet.

Do you know where Pergami was at that time? I do not know.

After her royal highness had gone into the cabinet, what did she then do? I do not know what she did, but she returned immediately into the bed-room where I was.

Did she say any thing to you; did she give you any orders? Her royal highness told me to forbid William Austin to enter into her room, because she wished to sleep quietly.

Where did William Austin sleep that night? In a small cabinet, where he remained all the time we were at Naples.

Was that cabinet adjoining to the bed-room of the princess? It was near, there was a door of communication.

Do you know whether that door was open or shut that night? I saw it shut.

When that door was shut, was there any communication between that cabinet and the passage of which you have spoken? There was none but the passage.

What beds were there that night in the bed-room of the princess? Two; a large one and a small one.

What was the small bed? The travelling bed of her royal highness.

Did her royal highness usually sleep on that bed? She slept in it generally.

Was that bed, or not, made up that night for her royal highness? I saw in the evening that it was made.

Did you take any notice of the other bed, whether there were sheets on it, or not? I saw afterwards that there were no sheets.

How long did you remain with her royal highness that night before you left the bed-room? Some minutes, a very little time.

Did you make any observation upon the conduct of her royal highness at that time in the bed-room? I saw she was extremely agitated.

What was your reason for remaining only a few minutes?

Mr. Williams objected to the question.

The counsel were informed that the question might be put.

The question was proposed to the witness.

Because her royal highness sent me away immediately.

Had that been her usual practice? It had not.

What time the next morning did you see her royal highness? I do not remember precisely.

As nearly as you can recollect? Near eleven o'clock, or about eleven o'clock.

Was that later, or about her usual time? It was nearly her usual time.

When did you see Pergami that morning? I did not see him during the whole of the morning.

When was it that you first saw him that day, and where? At dinner.

Did you take notice of the princess's travelling bed in the morning? I did.

What observation did you make, as to whether it had been slept in or not? I observed that nobody had slept in it.

Did you observe the larger bed, what appearance that had? I did.

What observation did you make upon the large bed? I observed it had been occupied.

Can you inform their lordships more particularly of the state of it? I cannot.

Was it much or a little deranged or tumbled? Not much.

Do you know where Pergami slept, during the whole time he resided at Naples, from that period? In his room.

Is that the room which you have described? Yes.

Was it near or at a distance from the rooms of the other servants? There was only Mr. Hieronimus who slept on the same side of the house.

Where did Mr. Hieronimus sleep? In a room which had a door in a corridor, which was before entering the room of her royal highness; the two doors were in the same passage.

Did you, whilst you resided at Naples, ever see Pergami in the bed-room of her royal highness, or in her dressing-room? I have seen him in the bed-room very often.

Who was it that at Naples assisted her royal highness in making her toilette? I.

Did you ever see any other person present at the time when her royal highness was making her toilette at Naples? Mr. William Austin, and Mr. Pergami.

Was Pergami at that time courier? He was a courier.

How old was Mr. William Austin? Twelve or thirteen years about.

You have said that you have seen Pergami present in the dressing-room, when the princess was making her toilette; was that once or more than once, or how? Several times.

In what state of her royal highness's dress, when she was little dressed or much dressed, or how? Sometimes she was dressed, sometimes she was not.

Did he go in only for a moment, and come out again, or did he remain for any time? He went in and out.

Do you remember ever seeing Pergami at night in the passage of which you have made mention? I do.

Where was her royal highness at that time? In her bed-room.

Was she dressed or undressed, or in what state? She was undressed.

Where were you standing? I was near to the door of her royal highness.

Where did you see Pergami? I saw Pergami come out of his room, and come into the passage.

In what direction, towards the princess's room, or how? He was going towards the bed-room of her royal highness.

What was the state of Pergami's dress at the time you saw him in the passage going towards the bed-room of her royal highness? He was not dressed.

When you say he was not dressed, what do you mean; what had he on? He was not dressed at all.

Do you remember what he had on his feet? Slippers.

Do you remember whether he had any stockings on? I saw no stockings.

Had he on any thing more than his shirt? Nothing else.

You have said that the princess at that time was undressed; had she got into bed or not? She was not in bed.

When you saw Pergami coming along the passage in the direction of her royal highness's room, in the manner you have described, what did you do? I escaped by the little door which was near me out of the apartment of the princess.

You have stated what was the condition of the small travelling bed on the second night after the princess's arrival at Naples; what was the state of that bed on the subsequent nights during her residence at Naples? I made no observation on it afterwards.

State what was the appearance on the second night of the great bed, whether it had the appearance of one person having slept in it or more? More than one person.

How was that bed on the subsequent nights; had it the appearance of one person having slept in it, or more than one person? I have always seen the same thing.

At Naples? Yes, at Naples.

Was it your business, during a part of the time of the residence at Naples, to make the princess's bed? Towards the latter end of the time we remained at Naples it was I who made the bed.

Did you make the small travelling bed? I did.

Did you make it up every day? I do not remember at Naples.

Do you mean to say you do not remember during any part of the time at Naples? Not during the whole time.

Do you remember a masked ball that was given to Murat by her royal highness? I remember it.

Where was the place where it was given? At a house on the sea shore.

Where did her royal highness dress herself for that ball? In a small room on the second floor.

In the house where the ball was? In the same house.

In what character did she first appear? In the character of a countrywoman in the neighbourhood of Naples.

Whose business was it to assist her royal highness in putting on her dress for the ball? Mine.

Did you go to that house? I did.

Did Pergami also go? Yes, he went with me in the same carriage.

When the princess dressed herself in the dress you have described of a Neapolitan peasant, who assisted her in dressing? I.

How long did her royal highness remain at the ball in the character of a Neapolitan peasant? About an hour.

Did she afterwards return for the purpose of changing her dress? Yes.

What dress did she assume the second time, what character? The Genius of History.

Did she change her dress entirely for that purpose? Yes.

Did you assist her in changing her dress? I did not.

Who assisted her in changing her dress? Pergami went into her dressing room; there were two rooms an anti-room and a dressing-room.

Where did you stay yourself? In the anti-room.

Did you see Pergami go into the dressing-room? I saw him enter.

How long did the princess remain in the dressing-room before she came out with her dress entirely changed? I do not remember precisely.

Can you tell about how long? About three quarters of an hour.

When she came out, did she come out alone, or did any person come with her? Pergami came out first, and her royal highness came out after.

How long before her royal highness came out did Pergami come out? A very little time.

When you say a very little time, was it one, two, three, or four, or five minutes, or what? Two or three minutes.

Did her royal highness go to the ball in this character you have described? She went down to go to the ball in the same character.

How long did she remain absent? About three quarters of an hour, thereabouts.

At the end of that time, did she come back again into the anti-room? She returned into the anti-room.

Describe the manner in which her royal highness was dressed in this character of the Genius of History? She had her arms bare, and her breasts bare, and the drapery in the same way as people represent the Muses, or the Genius of History.

When you describe the arms bare, up to what part do you mean; the entire arm, or how? I did not observe whether they were completely bare.

You have mentioned, that after the princess had gone to the ball the second time, she returned to the anti-room; did she go into her dressing-room again, for the purpose of changing her dress? She did.

Did you go into the dressing-room, for the purpose of assisting her, or who else? I did.

In what character was she dressed this third time? Something like a Turkish peasant; something that had the appearance of it.

Where was Pergami during the time the princess was arranging her dress as a Turkish peasant? In the anti-room.

What was he doing there? In going out of the room, I saw him dressed like a Turk.

Did her royal highness go to the ball again, in this character of a Turkish peasant? I saw her go down stairs to go to the ball.

Did she go alone, or did Pergami go with her? Pergami went with her.

Did you see them go down stairs together? I did.

In what way did they go; were they separate, or how? The princess was under the arm of Pergami.

Was Pergami still courier? He was.

Did Pergami return from the ball before the princess, or how? He returned almost immediately.

Upon his return, did her royal highness come back? I do not remember.

How soon after did you see her royal highness? I saw her at the moment we were going to our house.

Do you recollect whether or not you saw her royal highness soon after Pergami returned from the ball in the manner you have described? I do not remember.

Was there any garden belonging to this house where the princess lived at Naples? Yes, there was a garden.

Was there any terrace in that garden? There was a small terrace.

Did you ever see the princess walking upon that terrace? I have seen her once.

Alone, or with any body? With M. Pergami.

Can you describe how they were walking, whether they were together or separate? The princess was under the arm of M. Pergami.

Do you recollect where the princess was in the habit of breakfasting at Naples? In the small cabinet with a fire-place.

By that do you mean the cabinet you have described contiguous to the bed-room of Pergami? I do.

Did she breakfast there alone, or did any person breakfast with her? I do not know.

Were you ever in the room when her royal highness was at breakfast in that cabinet? I do not remember.

Do you remember Pergami meeting with some accident while he was at Naples? I do.

Upon that occasion was there any bed or sofa put into the cabinet? I do not know whether it was put for that occasion; but I saw Pergami sitting on a sofa in the same cabinet.

Do you know the theatre St. Carlos at Naples? I do.

Did you ever go to that theatre with her royal highness? Yes, once.

Who went with her royal highness besides you? M. Pergami.

In what carriage did they go? A hired carriage.

Did Pergami go in the carriage with her royal highness? He did.

Where did her royal highness get into this carriage? We went through the terrace and the garden by a small door which led into a small street which was by the side of the garden.

What kind of night was it, do you happen to recollect? Gloomy, very gloomy, and it rained.

When you first arrived at the theatre, into what part of the theatre did you go? We went up stairs into the saloon where they walk.

In what way was her royal highness dressed? Her royal highness was dressed in a red cloak; a very large cloak.

In what way was Pergami dressed? As far as I can remember, he was dressed in a red domino.

What had he on his head? A large hat.

Of what description? Large.

When you got into the saloon, what took place? Nothing happened to us.

Did you afterwards go into any other part of the house? We descended into the pit.

When you got into the pit, what happened? Many ugly masks surrounded us, and began to make a great noise and hissed us.

Describe all which took place? Those masks surrounded us, and we had great difficulty to withdraw, at last we went into a small room.

Was there any thing particular in the dress which her royal highness wore? Her dress was very ugly, monstrous.

How long did her royal highness remain in the whole at Naples, as well as you recollect? About three or four months.

During that time, did Pergami continue to wait at table as usual, or how? Yes, he did.

Did you make any other observations, except as you have stated, upon the conduct of her royal highness and Pergami towards each other, when they were together at Naples? Only that they were very familiar, one towards the other.

How early did that familiarity commence, at what period? From the moment we reached Naples.

Were the servants in general in the habit of going into the bed-room of her royal highness without knocking? No, unless they were sent for by her royal highness.

Did you observe, in this respect, how Pergami conducted himself; did he go in without knocking, when he was not sent for? He never knocked.

Did any part of the English suite of her royal highness quit her whilst she was at Naples? Not during our stay; but when we left Naples, some remained at Naples.

Where did her royal highness go to from Naples? To Rome.

Which of the four gentlemen whose names you have before mentioned accompanied her royal highness to Rome; did any of them? Dr. Holland.

Did the lady you have mentioned accompany her royal highness to Rome? She remained at Naples.

What lady was that? Lady Elizabeth Forbes.

Had her royal highness then any English lady in her suite when she arrived at Rome? She had lady Charlotte Lindsay.

When did lady Charlotte Lindsay join? As far as I recollect, towards the end of the time we were at Naples.

From Rome did her royal highness go to Civita Vecchia, and afterwards to Genoa? Yes.

Do you remember the house in which her royal highness resided whilst she was at Genoa? I do.

Was there any other English gentleman, except Dr. Holland, in the suite of her royal highness at Genoa? Mr. Hownam joined at Genoa.

With the exception of Dr. Holland and Mr. Hownam, was there at that time any other English gentleman in her suite? No; lord Glenbervie came every day to dine but I do not know that he was in the suite.

Did lady Charlotte Lindsay go to Genoa? She did not.

Where did she leave? At Leghorn.

Do you recollect the situation of the bedroom of the princess and of Pergami at Genoa? I do.

Were those rooms near or distant from each other? They were very near one to another.

Do you recollect what separated them? A single room.

For what purpose was that room used? There was the luggage of her royal highness, and her royal highness dressed there also.

As far as you recollect, was there any communication between that room and Pergami's There was.

Did they continue to sleep in those rooms you have described during the whole time that her royal highness resided at Genoa? They did.

Did you observe where her royal highness breakfasted at Genoa? I did.

Where was it? In a small cabinet at the end of the grand saloon.

Do you know whether she breakfasted there alone or not? I have seen twice Mr. Pergami breakfast with her.

Was Pergami at that time courier? He was.

Do you know who waited at breakfast? Louis Pergami and Theodore Majocchi.

What relation is Louis Pergami to Bartholomew Pergami? Brother to Mr. Pergami.

Do you remember any garden or shrubbery belonging to that house at Genoa, where her royal highness resided? I do.

Have you ever seen her royal highness walking in that shrubbery? Very often.

Did you ever see Pergami in the shrubbery? I have.

Was her royal highness, when walking in the shrubbery, always alone, or had she any person with her? Pergami was always with her.

How were they walking, in what way, separate or together? Her royal highness was upon an ass, but at other times they walked together.

When you say they walked together, describe in what manner they walked together? I have not observed.

Had you any thing to do in making her royal highness's bed during any part of the time of the residence at Genoa? Till the time that my sister arrived.

You were just asked whether you had seen the princess and Pergami walking together in the shrubbery; you said, many times; were they at those times alone, or were other persons with them? Sometimes me, sometimes Theodore Majocchi, and sometimes William Austin, and sometimes, we were all together.

At Genoa, where was the bed-room occupied by you? By the side of that of her royal highness.

Was the door between the room occupied by you and the bed-room of her royal highness open at night, or how? The princess always locked it every night when I went away.

You were asked whether the door between your bed-room and that of the princess was left open at night, or how; you said it was shut; what do you mean by shut, shut with the key, or only shut? Her royal highness turned the key inside.

Was the bed-room of Pergami situate on the opposite side? It was.

In the morning, who let you into the princess's room? The princess herself called me from my room.

Did you observe the bed of the princess, whether it had been slept in or not? Most often it had not been slept in.

What do you mean by "plus souvent?" Ordinarily, commonly.

You have stated that after you were in your bed-room the princess locked the door on the other side; after this, did you hear any noise of any door opening, or any other thing, in the princess's room?

The witness was directed to withdraw.

The Duke of *Hamilton* said, he interposed with great reluctance, because he thought the interpreter not quite competent to the task he had undertaken; he should be wanting to himself and to his country in a case of so much importance if he did not say, that the mode of interpretation as it had been conducted since this witness was called had not been satisfactory to him.

The Earl of *Liverpool* said, that the marquis di Spineto had shown himself an excellent Italian, but he did not seem quite so perfect in the French language. He was not aware that any material mistake had been made by him, but the interpreter had certainly appeared embarrassed sometimes, and it might be better if a gentleman could be procured more conversant with French.

The *Solicitor-General* said, that from the inquiries they had made, they had reason to think the marquis perfectly competent to discharge the duty he had undertaken. He and the interpreter on the other side had only differed regarding a single expression.

The Earl of *Harrowby* admitted, that the interpreter did not seem sufficiently acquainted with the idiom of the French language, although he was not aware that he had made any mistake. Of his general intelligence and competence, as far as his own language was concerned, there could be no doubt. It was necessary, however, that a person should be provided, well versed in the respective idioms to the French and English languages.

Earl *Grey* agreed, that no unfaithful translation had been given by the interpreter, and that his task was an arduous one, recollecting the liability of confusing three languages, two of them not his own. He had performed his duty in his native tongue in the most satisfactory manner.

Mr. *Brougham* said, that he and his friends had no complaint to make against any part of the interpretation hitherto. The French of the marquis di Spineto was certainly not so good as his Italian, but at least for this day he had no objection to its being continued, and to-morrow another interpreter could be procured.

The witness was again called in, and the question was proposed through the marchese di Spineto.

I have sometimes heard the noise of a door opening towards the side of the princess, but I do not know whether it was the door of her room.

Was there any other door, that you recollect, in that direction, except the door of the princess's room, or the door of Pergami's room? There was a third door into the dressing-room of her royal highness.

Was that the room which you have described as being the room between the bed-room of her royal highness and Pergami's room? In the room which was between the two rooms, there was a thrid door, which was in the room where her royal highness breakfasted.

After you had heard this door open, did you hear any noise in the princess's room during the remainder of the night, or was all quiet there? All was quiet.

Was it your business, at the period of which you are speaking, to make the bed of her royal highness? It was.

Describe what you were in the habit of doing to the bed? I arranged the pillows, and I spread the clothes.

Did you unmake the bed entirely? Very seldom.

Why did you not? Because there was no need for it; it was made.

Was it in that state in the morning always, when you went for the first time into her royal highness's bed-room? Almost every morning.

How long did her royal highness continue at Genoa? Nearly two months.

During the time that her royal highness resided at Genoa, did any of the relations of Pergami enter her service? Louis Pergami, brother to Mr. Pergami.

Do you remember Faustina? I do.

Did she enter into the service there? She was travelling and arrived at Genoa, but I do

not know whether she entered the service of her royal highness.

Did she live in the house of her royal highness? She came expressly from Milan to her royal highness.

Did she reside with her royal highness during the remainder of the time that her royal highness continued at Genoa? She did.

Do you know Pergami's mother? I do.

How did they call her? They called her Nonna, which signifies grandmother, the mother of Mr. Pergami.

Did she continue to live with her royal highness during the remainder of the time she continued at Genoa? Yes, as well as Faustina.

Was there a little child, the daughter of Pergami? Yes.

What was her name, and how old was she? She was called Victorine, and was about two or three years old.

Did her royal highness, whilst she was at Genoa, go to look at any house in the country? She did.

Did she say for what purpose she went to look at that house? Because she wished to live there, she had a desire to take it.

Did she say any thing about the English? She said, that it was distant from the town, where there were many English.

Do you know how she came to say, that it was distant from the town, where there were many English?

Mr. Williams, of counsel on behalf of the Queen, objected to the question.

Mr. Solicitor General.—Did her royal highness say any thing more upon that subject? Her royal highness only said, that she wished to take that, because it was far from Genoa and the English.

Where did her royal highness go to from Genoa? She went to Milan.

Did she go to a house in the Place Boromeo? Not immediately.

How soon after her arrival at Milan did she go to that house? Two or three days.

Had any English lady joined her royal highness at Genoa? Lady Charlotte Campbell.

With her daughters? Her daughters came also, but they were in a private house.

Did lady Charlotte Campbell go to Milan with her royal highness; did she accompany her on the road to Milan? She did not, not on the same day, but she came afterwards.

Who went in the carriage from Genoa to Milan, with her royal highness? William Austin and I.

Did you see Pergami on the road? I did.

Did you see her royal highness say any thing, or do any thing, or give any thing to Pergami on the road? Her royal highness gave often something to eat to Pergami, and asked him if he wanted any thing.

Do you mean that that was at the times when they stopped at the inns, or when they were travelling on the road? On the road, because we ate in the carriage.

In what character was Pergami serving upon that journey? He was on horseback, dressed as a courier.

Do you recollect the situation of the bedrooms of Pergami and the princess in the Place Boromeo at Milan? I do.

Were they near to or distant from each other? They were near.

How long did lady Charlotte Campbell continue at Milan with her royal highness? I believe nearly a month, as far as I can recollect.

When lady Charlotte Campbell went away and left her royal highness, was there any English lady remaining in her suite? No.

Did any other lady come into the situation of lady of honour? Yes.

How soon after lady Charlotte Campbell had gone away? A few days after.

Who was that person? The countess Oldi.

Before she came into the service of her royal highness, had you any conversation with her royal highness upon the subject, or did her royal highness say any thing to you upon the subject? She told me that countess Oldi wished to come; that the countess Oldi wished to come into her service as a dame d'honneur; that her royal highness wished to take the countess Oldi into her service.

At the time you had this conversation with her royal highness, did her royal highness tell you who the countess Oldi was? She told me only that she was a noble lady.

Do you know what relation the countess Oldi was to Pergami? She was the sister of Mr. Pergami.

How soon did you know that the countess Oldi was a sister to Pergami? Two months after.

Two months after what? Two months after her arrival.

Did her royal highness give any other description of the countess Oldi, except that you have mentioned, that she was a noble lady? She only said that people said that she was pretty or handsome.

After this conversation, did you see madam Oldi when she came into the service? I did.

Do you know whether she could speak French? Not at all.

Could her royal highness speak Italian? Very little.

Did you make any observation upon the language of the countess Oldi, so as to ascertain whether she was a woman of education? I only observed, that she spoke very vulgar Italian.

Did you ever see any of her writing in Italian?

Mr. Williams objected to the question.

Did you make any observation upon the manners of the countess Oldi; whether they were the manners, in your judgment, of a gentlewoman or not?

The interpreter stated, that he was under a difficulty in interpreting that question; as there was not such a word as "gentlewoman" in the French language.

Did you make any observation upon the manners of the countess Oldi? No, I did not.

Do you remember a gentleman of the name of William Burrell being with her royal highness at Milan? I do.

How long did Mr. William Burrell remain with her royal highness? Not a very long time; I do not remember precisely.

Can you state about the time? About a month, more or less.

After Mr. William Burrell went away, did any other English gentleman come into the service of her royal highness? No.

At what place did Dr. Holland quit her royal highness? At Venice.

Was that during the time that her royal highness was residing at Milan? It was.

Did any other English person except Mr. Hownam remain in her royal highness's service after that time? No.

Where did her royal highness go to from her house in the Place Boromeo? To Como. To Villa Villani? Yes.

Was there any gallery belonging to the house in the Place Boromeo? Yes, round the house, inside.

Do you remember being in that gallery at any time in the morning, and seeing Pergami? I have not seen Pergami on the gallery.

Where did you see him? At his window.

What was he doing? He was opening his window to call his servant.

What robe or dress had he on at that time? He had a gown of blue silk that the princess put on generally in the morning.

Had you seen the princess wear this before that time? Often.

How near to that time, some days before or the day before, or how? Some days before.

After Mr. Burrell left the house of her royal highness, did any alteration take place, was there any change in what was going on in the house? There was more freedom in the house, more liberty.

Can you state in particular what you allude to, what you observed? Her royal highness and the servants played in the saloon every evening.

Can you tell at what game? Different games, different plays, different frolics, blind-man's-buff.

Did the princess play? She played sometimes.

To the best of your recollection, did this take place before Mr. Burrell left? After Mr. Burrell left.

Did you make any observation upon the conduct of her royal highness with respect to Pergami during the residence at Milan and at the Villa Villani? No, only that they were very free towards one another.

When was it that the princess went to the Villa d'Este? At the beginning of September.

The Counsel were directed to withdraw.

Ordered, that the farther consideration and second reading of the said bill be adjourned to to-morrow.

HOUSE OF LORDS.

Thursday, August 31.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to deprive Her Majesty, &c.," counsel were called in.

George Pinario was sworn as interpreter, at the desire of the counsel in support of the Bill, and Edgar Garston, at the desire of the counsel on behalf of the Queen.

Then *Louisa Demont* was again called in, and further examined as follows by Mr. Solicitor General, through the interpretation of Mr. Pinario.

Did the princess, while she was residing at the Villa Villani, make any tour to any place? To Monte St. Gothard.

Do you remember at what place in that tour she first stopped? At the Boromean Isles.

Did the princess sleep at the Boromean Isles? Yes.

On the day on which she slept at the Boromean Isles, where did she dine? I do not recollect.

Do you remember whether you dined at any inn on the road? I think they stopped at an inn at Varise, but I am not perfectly sure.

Had you ever been before at the Boromean Isles with the princess? Yes.

Did the princess sleep at the Boromean Isles upon the first occasion? Yes.

Do you remember the apartment in which the princess slept on the first occasion, when she visited the Boromean Isles? Yes.

Was that on the journey which the princess made from Lausanne to Milan, upon her first arrival at Milan? Yes.

What apartment was it that was prepared for her royal highness, and in which she slept on the first occasion on which she visited the Boromean Isles? The most elegant apartment that could be found in the Boromean Isles.

Is that the inn, or is it the palace Boromeo? It is the Boromean palace.

When her royal highness visited the Boromean Isles upon the second occasion to sleep, what apartment had been prepared for her? I do not remember the apartment that had been prepared for the princess.

Do you remember in what apartment the princess slept? Yes.

Did you upon the second occasion see the apartment in which the princess slept the first time? Yes.

In what apartment did the princess sleep the second time? In an apartment remote from the former apartment.

Do you know where Pergami slept? Near the apartment of her royal highness.

Was the apartment, in which her royal highness slept at the Boromean Isles, prepared for her before her arrival or afterwards? As far as I can remember, it was prepared after her arrival.

What kind of an apartment was it in which her royal highness slept? A large room.

Do you remember whether there was any communication between that apartment and the room in which Pergami slept? I do not recollect.

Do you remember her royal highness going to Bellinzona? Yes.

Did she dine at an inn at Bellinzona? Yes.

Where did Pergami dine? I saw Pergami sitting at table with her royal highness.

At the time that you saw Pergami sitting at the table with her royal highness at Bellinzona, how was he dressed? He was in his courier dress; he was dressed like a courier.

Did he, upon that journey, act as a courier? He was not riding on horse-back, but in the carriage; I do not remember whether he was courier, but he was dressed like a courier.

In what carriage was he riding? In an open carriage.

Was that the carriage in which her royal highness was riding, or a different carriage? It was another carriage.

Did her royal highness dine more than once at Bellinzona upon that journey? I believe not.

Did her royal highness return from that journey to the Villa Villani? Yes.

In what month, as nearly as you can recollect, did her royal highness go from the Villa Villani to the Villa d'Este? As far as I can recollect, the beginning of September.

On the journey to which you have been asked, did her royal highness stop and sleep at Lugano? Yes, upon our return.

Do you recollect the disposition of the apartments, the bed-rooms of her royal highness and of Pergami, at the Villa d'Este upon your first arrival at the Villa d'Este? Yes.

Describe first of all the situation of the apartment of her royal highness, through what rooms or passages you passed to get to it? One entered into a dark anti-room, and after that into a small corridor or passage, then there were two rooms, and after the two rooms the sleeping-room.

Did the two rooms you have described as being before the bed-room, communicate with each other? They did communicate the one with the other.

Did the second of those rooms communicate with the bed-room? Yes.

Are you to be understood, that in going through the bed-room you passed through those two anti-rooms into the bed-room? Yes.

Describe now the situation of Pergami's bed-room? The sleeping-room of Pergami communicated with the same dark anti-room which I mentioned before.

By that do you mean the first room which you mentioned? Yes, the first room.

Besides the communication between this dark anti-room and the bed-room of Pergami, was there any other communication between the bed-room of Pergami and any other place? Yes.

With what place? With the sleeping-room of her royal highness.

What was there between the bed-room of her royal highness and the sleeping-room of Pergami? A small very narrow cabinet.

Did any body sleep in that small cabinet? I never saw any body in it.

When the door that opened upon the dark room you have first mentioned from Pergami's room was closed, could any person get into Pergami's bed-room, except through that cabinet? I never saw any other.

Do you remember whether there was any other way into the bed-room of Pergami, when the door that opened upon the dark room was closed, except through the cabinet? I never saw any other passage.

At what hour did the princess usually go to bed at that time; the first time? Sometimes at eleven o'clock, sometimes at midnight.

Who used to go with the princess to the bed-room? Sometimes, when I was in the bed-room with her royal highness, there was only Pergami besides; sometimes, when I was alone in the princess's bed-room before her royal highness came, Pergami accompanied her royal highness into it.

Through which way did they come? Through the two rooms that I have described.

When Pergami had so accompanied her royal highness into her bed-room which way did he go, or did he remain there? He did not remain long; sometimes he passed through the two rooms already described, and sometimes through the door of the little passage; the cabinet served as a passage.

To the room of Pergami? The chamber of Pergami.

By a Lord to the Interpreter.—Of what country are you a native? A Genoese.

Mr. Solicitor-General to the Witness.—Did you remain in the room for the purpose of undressing her royal highness? Before her royal highness entered, or afterwards?

Afterwards? Yes; I undressed her every night.

After you had undressed her, which way did you retire? Through the two dark rooms which I mentioned.

Did her royal highness accompany you? Most frequently she did.

When you say that her royal highness accompanied you, how far did she accompany you? As far as the last door.

Was any thing done by her royal highness with that door when you retired? Her royal highness locked it with a key.

Did that ever happen when Pergami was left inside? No.

The *Solicitor General* stated that the ques- had not been rightly interpreted.

Mr. *Garston* stated that the translation had been given to the witness "within."

Did that ever happen when Pergami was left within, inside? Do you mean in the apartment of her royal highness, or his own apartment.

Did that ever happen either when Pergami was left in the apartment of her royal highness, or when he was left in his own apartment? Not in the apartment of her royal highness, but he was in his own apartment.

Did you attend her royal highness in the morning? Yes.

Did you enter the apartments in the same way in which you had been let out? By the same communication.

Did you ever make any observation in the morning, upon the door of her royal highness's bed-room that opened into the small cabinet, whether it was open or shut? Sometimes I found it half open.

Upon those occasions did you ever see or hear Pergami? No.

Do you understand, that you are now asked, as to the first time of the residence in the Villa d'Este? Yes.

At the time when you went to call the princess, did you ever see Pergami? In the room do you mean.

The question is not whether you saw him in the room, but whether you ever saw Pergami when you went to the princess? I do not recollect.

Did you ever in the morning, before her royal highness was dressed, see Pergami? Yes.

Where have you seen him? At the door of his room, calling his servant.

Have you ever seen her royal highness at the same time? Yes.

Where? At the door of the last room where she called me.

In what state was her royal highness with respect to her dress when you saw her? She had generally a mantle of silk which she put on in the morning.

Had she any thing else on? No.

What had Pergami on? A blue silk mantle.

Had that mantle belonged to her royal highness? Yes.

How near were they to each other in the situation you are now describing? About twenty paces.

Did any thing pass between them—any conversation, or any thing that you recollect? They spoke to each other.

Were the doors open or shut? They were open.

In giving an account of this, are you speaking of one time only, or of more than once? I saw it several times.

Did you ever see her royal highness and Pergami on the Lake during the first residence at the Villa d'Este? Yes.

Alone, or with other people? Alone.

In what kind of vessel, a boat or a canoe? A small canoe.

During the time of her royal highness's residence at the Villa d'Este did you ever see them walking together? Yes.

In what way did you see them walk together; separate or together? Together.

How, describe in what way? Sometimes her royal highness had Pergami's arm.

Do you remember the little Victorine at the Villa d'Este, during the first residence? Yes.

How did she address her royal highness? She called her mama.

Do you remember that happening before they got to the residence at the Villa d'Este? I do not recollect.

Do you remember whether Pergami dined with her royal highness during her first residence at the Villa d'Este? He generally dined at our table, the servants' table.

Do you remember upon any occasion during the first residence at the Villa d'Este, Pergami dining with her royal highness? Pergami dined once with her royal highness, as far as I recollect.

Was that before the voyage to Greece? Yes.

Do you remember, at any time, her royal highness coming into the room where you were at dinner? Only once.

Was that during dinner-time? Yes.

Was Pergami at table? Yes.

Was Pergami's mother at table? Yes.

What did her royal highness do upon her coming into the room at that time? She sat down at table by Mr. Pergami.

Do you remember at that time seeing Hieronimus? At that moment he was not at our table.

Did you see him, did he come in? He came in afterwards into the room.

Before he came into the room, did her royal highness make any observation, or do any thing? Her royal highness said, "I hear Hieronimus in the kitchen, I must go," and her royal highness left the room almost immediately.

Did you accompany her royal highness upon the voyage to Greece? Yes.

Do you remember arriving at Palermo? Yes.

Was it on board the Leviathan? Yes.

Do you remember being on the deck of the Leviathan early one morning? Yes.

Do you remember afterwards going below? I did not go below after that.

Do you remember seeing her royal highness after that? Yes, I saw her immediately after.

Where did you see her? In her cabin.

Below deck? The cabin was not below.

On the poop? Upon the poop.

Was her royal highness at that time up or in bed? She was in bed.

Do you know whether Pergami had been in the cabin of her royal highness? I do not recollect.

Did her royal highness go to court at Palermo? Yes.

Did Pergami go with her? Yes.

Do you know whether he went in the same carriage? I do not know.

Do you remember arriving at Messina? Yes.

Did you reside in Messina, or in the neighbourhood of that place? In the neighbourhood of Messina.

Do you recollect how the bed-rooms of her royal highness and of Pergami, and countess Oldi, were situated in that house near Messina? Yes.

Describe their situation; what was next to the bed-room occupied by the princess? That of the countess Oldi.

Was there a door leading from the bed-room of the princess into the bed-room of the countess Oldi? Yes.

What room was next to the room occupied by the countess Oldi? That of Mr. Pergami.

Was there a door communicating from the bed-room of the countess Oldi into the bed-room of Pergami? As far as I can recollect, there was a small passage between the two rooms that communicated.

What room was there next to the room occupied by Pergami, beyond? My own.

Did you at that time assist her royal highness in going to bed, in undressing her? Yes.

In passing from her royal highness's room, did you go through the room of the countess of Oldi and of Pergami into your own room? Yes.

Upon those occasions, did you ever find Pergami in his room in bed? Yes, sometimes.

Do you remember her royal highness calling you at any time in the morning? Sometimes she called me in the morning.

In what way did she come to call you? Yes, sometimes she did.

To what place, to what door? At the door which was next to Pergami.

Do you mean by next to Pergami, the door that opened from Pergami's room into yours? Yes.

Did the princess open that door? Sometimes the princess, sometimes Pergami.

When the princess opened that door, in what state was she in point of dress? In the same cloak which I have already described.

Had she no other clothes on except her night clothes? No.

Upon those occasions was Pergami in his bed? I never saw him in the morning in bed.

Upon those occasions was he in the room? Sometimes he was, sometimes not.

You have said that Pergami sometimes opened the door; when Pergami opened the door did you go into the room for the purpose of passing into the bed-room of the princess? Yes.

Did you find the doors between Pergami's room and the room of the princess open or shut? Generally I found them open.

Do you remember at what time her royal highness, at Messina, was in the habit of going to bed; whether earlier or later than she had been before used to? Sometimes earlier, sometimes later.

Did any body usually attend her at Messina, for the purpose of undressing her? Yes.

Every night? She did not call me every night.

When you did not attend for the purpose of undressing her, who did attend? I do not know whether it was my sister that helped.

Did you make any observation upon the conduct of Pergami and the princess towards each other, as to the manner in which the princess addressed Pergami at Messina? Yes.

State what expressions she made use of? Do you mean as to calling him generally.

Either when she called him, or at any other time, or when they were parting? When they parted she often called him "mon cœur," my heart.

Any thing else? Sometimes, "Adieu, mon cher ami," my dear friend.

Do you remember on any occasion his asking to go to Messina? Sometimes I heard him ask leave to go to Messina.

Do you recollect what term the princess made use of upon those occasions? When they parted, "Adieu, mon cœur," or, my heart; "prenez garde," take care.

Have you heard them do any thing else upon those occasions? I do not precisely recollect.

Did you see or hear them do any thing upon any one of those occasions? I never saw him do any thing, but I observed they sometimes embraced on those occasions.

Mr. *Garston*.—I have heard but not seen them do any thing.

Mr. Pinario stated, that the word used might also mean "kiss."

By embrace, do you mean they kissed each other? Yes; I heard them kiss each other behind me.

Did you go on board the Clorinde, from Messina to Syracuse? Yes.

An English frigate? Yes.

How was Pergami dressed on board the Clorinde; do you remember; had he any great coat? As far as I can recollect, he had a blue great coat.

Do you remember seeing Pergami at any

time in the cabin of her royal highness on board the Clorinde? I remember I saw him, once.

Where was her royal highness at that time? In the same cabin.

On her bed, or up? It was in the day-time, but she was lying on her bed.

Where was Pergami in the cabin? He was also on another bed by the side of her royal highness.

Did you remain any length of time in the cabin? Nearly half an hour.

When you say that Pergami was upon the bed in the cabin, was he sitting or lying? He was lying on the bed.

Where did her royal highness lodge at Syracuse; in what house? In a small country house on the other side of the harbour.

Do you remember the disposition of the bed-rooms in that house, her royal highness's bed-room? Yes.

Describe the situation of the bed-room of the countess of Oldi and of yourself? The countess Oldi was in the same room with me, which communicated with the dining-room.

Was there any other room besides that dining-room? There was another.

By whom was that occupied? By the gentlemen of the princess's suite.

Was there a room upon the opposite side of the dining-room? Yes, the room of her royal highness.

Was there any private staircase in that room? Not in the room, but by the side of the room.

Where was Pergami's bed-room? Pergami's room was on the same side, above the little staircase.

To the best of your recollection, did any body, except Pergami and her royal highness, sleep on that side of the dining-room? As far as I can recollect, nobody.

Was there any thing between her royal highness's room and the bed-room of Pergami, except the small staircase you have described? I do not recollect.

You have stated that there was a small staircase near the bed-room of her royal highness, and that beyond that was the bed-room of Pergami; do you remember whether there was any thing between her royal highness's bed-room and Pergami's bed-room, except that staircase which you have so described? I do not recollect.

Was there a door leading from her royal highness's bed-room into the dining-room? Yes.

Did you observe her royal highness do any thing with that door at night? I have heard several times her royal highness lock it with a key after I was gone out.

When that door was locked, as you have described, would there still be a communication up the staircase between the bed-room of her royal highness and that of Pergami? Yes, there was a door in the room of her royal highness.

Was that door on the side of the staircase by the staircase? It was near the little staircase.

Do you remember any accident happening to her royal highness's bed at Syracuse? I do not recollect.

Do you recollect whether any accident happened to the bedstead of her royal highness at Syracuse, whether it was out of order, or any thing of that kind? I do not recollect.

From Syracuse did her royal highness proceed to Catania? Yes.

Where did her royal highness reside at Catania? In the town.

Do you recollect the disposition of the bed-rooms in the house at Catania? Yes.

Did the same disposition continue during the whole time that her royal highness was at Catania, or was it changed? There was an alteration for a few days only.

Will you describe what was the situation of the bed-room of her royal highness before that change took place? The sleeping-room of her royal highness communicated with the saloon, the drawing-room.

What room was next to the bed-room of her royal highness on the other side? My own.

Next to your room, what room was there? That of the countess Oldi.

Was there a communication between the bed-room of the princess and the bed-room which you occupied? Yes.

Was there also a communication between the room which you occupied and the room which was occupied by the countess Oldi? Yes.

Where did Pergami sleep? On the other side of a little yard which was in the interior of the house.

Was there any door between that yard and the bed-room of her royal highness? There was a door in the drawing-room, which went into the little yard.

Was there any door that communicated from the court into Pergami's bed-room? Yes, there was a door.

How long did Pergami continue to sleep in that room? For some time, I do not precisely recollect.

Was he afterwards indisposed, unwell? He was indisposed for some days.

During the time that he was so indisposed, what room did he sleep in? He slept in the room of the countess Oldi.

At the time when he slept in the room of the countess Oldi, did you continue to sleep in that room between the room of the countess Oldi and the room occupied by the princess? Yes.

During that time, did her royal highness go to bed before you? I recollect that one evening the princess went to bed before me, while I was at supper.

Did you see Pergami? No.

When you went up to your bed-room, how

was the door between your bed-room and that of the princess, was it open or shut? It was shut.

How was the door between your room and that which was occupied by Pergami on the other side? It was shut likewise.

Did you observe any thing during the night? During that night I made no observation.

Did you observe any thing in the morning? I do not recollect whether it was the morning immediately after, or the morning after that, the next morning, that I saw her royal highness come out of the room of the countess Oldi.

When she came out of the room of the countess Oldi which way did she go? She passed through my room in order to go to her own bed-room.

As nearly as you can recollect, at what time in the morning? At nearly ten o'clock.

Had she any thing in her hand, or nothing? She had a cushion or pillow, or two.

Were those the cushions or pillows on which she usually slept? Yes.

How was she dressed? She was not dressed; she was dressed as she was in the night after I had undressed her.

Mr. *Garston.*—The expression was, "as she was at night after I had undressed her."

Did her royal highness usually, when she was in bed, sleep in a night dress? I do not know.

Mr. *Garston.*—The reply to that question was, "I know nothing about it."

What dress, or what part of her dress did her royal highness usually sleep in, when she went to bed? I left her every night with a little white night gown.

When you saw her come through the room in the manner you describe, had she on a dress of that description? Yes, it was a little white gown which came in this manner, it reached as far as there [across the bosom.]

Was that the ordinary dress that her royal highness had on when you left her at night, after undressing her? Almost always, but sometimes she had a small cloak of silk.

Mr. *Garston.*—Not a small cloak, but a cloak of silk.

When you say, that she had a silk cloak, had she a silk cloak in addition to the small bed gown you have described? Yes.

You have said, that Pergami slept in the room that had been occupied at first by the countess Oldi, where did the countess sleep? In a small bed which had been put into her royal highness's room.

Where did the little Victorine sleep? In the same room.

During that night, did you hear the little Victorine? I heard the little Victorine cry.

On what night? That same night.

By that same night, do you mean the night preceding the morning in which you saw her royal highness come through your bed-room? Yes.

You have told us that Pergami, in consequence of his illness, changed his bed-room, and went into the bed-room of the countess of Oldi; do you recollect how many days that was before the time of which you are speaking, when you saw the princess come out of that room? I do not exactly recollect the time, but Mr. Pergami was three or four days in the same room.

Mr. *Garston.*—The witness said, "I do not know how long."

Mr. *Pinario.*—She repeats, "I do not recollect the time."

You are not asked to speak with precision, but was it one, two, three, or four days? I believe it was not more than one or two.

How long after that morning, as nearly as you can recollect, how many days did he continue to sleep in the room of the countess Oldi? I do not precisely recollect whether it was one or more; it is so long ago, I do not exactly recollect.

Was he sleeping there at the time of which you are making mention, when her royal highness came out of that room? Yes.

Do you remember, on the night before that of which you have been speaking, hearing the door of your room open? I heard the door of her royal highness open one night I was in bed, but I do not remember whether it was the night before that I saw her royal highness come out as I mentioned.

At the time when you heard the door open when you were in bed, was Pergami sleeping in the room before occupied by the countess Oldi? He occupied the same room.

[The witness gave her answer in French to this question before it was interpreted to her.]

At the time when her royal highness came out of the room as you have described with the pillows did her royal highness see you? Her royal highness looked at me.

When her royal highness looked at you, what did her royal highness do? She fixed her eyes upon me; she looked at me earnestly.

What did she do? She went on to her own room.

Did she say any thing? No.

Had you been in the habit of remaining as late as ten o'clock in the morning in that room? No, I generally went to breakfast at nine o'clock.

During the time that Pergami was sleeping in that room of the countess of Oldi, before you went to breakfast at nine o'clock usually, had either the door of the princess's room or the door of Pergami's room been opened? I never saw them opened.

During the time that Pergami slept in that room, had you ever been called to dress or to attend upon her royal highness before you went to breakfast at nine o'clock? No.

When you returned from breakfast, how did you find the doors? Shut, but sometimes her royal highness was up.

Was her royal highness in her own room? Yes.

You were describing something that passed in the adjoining room in which were the countess of Oldi and Victorine, describe all which you heard during that night in that room? I heard Victorine weep, calling mama, and the countess Oldi endeavouring to soothe her.

At the time when her royal highness came through your room in the manner you have described, were you alone in that bed? I was up.

Was any other person in the room? As far as I can recollect, my sister was in the same room with me.

Do you recollect whether your sister was up or in bed? My sister was up.

When her royal highness first saw you in the morning, was she in the habit of saying any thing to you; how did she address you? She generally said to me, "Good morning."

When you saw her upon that occasion, did she say any thing either to you or to your sister? She said nothing to me at all.

While her royal highness was at Catania, was her picture painted by any person? Yes.

Do you remember the name of the artist by whom the picture was painted? No.

Do you know in what character she was painted? As the princess was also painted at Augusta, I do not exactly recollect how she was painted at Catania.

As you have spoken of Augusta and the painting there, do you recollect in what character she was painted there? Yes.

In what character? As a Turkish woman.

Did you ever see any other picture painted of her royal highness upon that voyage, besides the one you have mentioned at Augusta? I have seen another portrait.

What was that other portrait, in what character? As a penitent Magdalen.

Do you remember in what place in Sicily? At Augusta.

How much of the person of her royal highness did that picture represent, the head, or more than the head? As far as the waist.

How was the upper part of the person, covered or uncovered in the picture? Uncovered.

How was the breast, was that covered or uncovered? Uncovered.

Mr. *Garston* stated that the other interpreter had used the word "Gorge" in putting the question, and that that means the neck rather than the bosom; that it is sometimes used to imply it, but not generally.

You have described that a part of the person was uncovered, how low did the part that was uncovered extend? As far as here. [Passing her hand across her breasts.]

Were the breasts covered or uncovered? It was uncovered as far as here, about the middle of it.

Besides the two pictures you have described of her royal highness, was there any other picture painted of her royal highness whilst she was in Sicily? Another portrait was taken.

Where was that portrait taken, at what place, as far as you can recollect? I do not know whether it was at Catania or Augusta.

In what character was that third portrait? In a common dress, as her royal highness used to dress.

This portrait of her royal highness in the character of a Magdalen; did you ever see that portrait in the possession of any person? Pergami showed it me one day at Augusta.

With respect to the second portrait, of which you have made mention of her royal highness in a Turkish character, did you ever see that portrait afterwards in the possession of any one? No.

Do you know whether the portrait of Pergami was taken? Yes.

Did you see at Naples any portrait of Pergami? Yes.

In whose possession did you see that portrait of Pergami at Naples? Is it at Naples I am asked to?

Yes, the question refers to the time at Naples? In nobody's possession.

Where was it you saw it? Pergami showed it to me.

You have stated that Pergami's portrait was painted in Sicily, in what character? In a common dress.

Was there more than one picture of Pergami painted in Sicily? Yes.

In what character was the second? As a Turk.

How was the dress arranged about the upper part of the person, was it open or closed? According to the Turkish custom it was open as far as here [the upper part of the chest.]

Were there more than those two portraits of which you have been speaking painted in Sicily? There have been more.

Did you ever see any of those portraits in the possession of any other person? I have seen a portrait of her royal highness in the possession of the countess Oldi.

You have told us you have seen different portraits of Pergami painted; did you ever see any of those portraits in the possession of any person? I saw one of them once in a little box belonging to her royal highness.

Which of those pictures you have described was it? That in the Turkish character.

Do you know whether her royal highness assisted at all in adjusting the dress for the purpose of either of those portraits being taken? Her royal highness made up the turban of Mr. Pergami.

Did she do any thing else to any other part of the dress? I do not recollect.

Did her royal highness ever say any thing to you about the dress, or the manner in which he looked best? I do not recollect.

Did Pergami receive any title at Catania? He was made a knight of Malta.

Did he receive any other title either at Catania or at Augusta? At Augusta he was baron della Franchina.

How long did her royal highness remain in the whole at Catania? Nearly one month.

Do you remember, on her arrival at Augusta, the house in which her royal highness resided? Yes.

Do you remember, in that house, the disposition of the bed-rooms of her royal highness and Pergami? Yes.

Describe them? They were separated by a small yard, a passage, and a little room in which nobody resided.

Did that continue during the whole time that her royal highness was at Augusta, or was that afterwards changed? There was a change.

When that change took place, where was the bed-room of Pergami? Pergami's sleeping room was near to that of her royal highness.

Was there any communication between the bed-room of Pergami, and the bed-room of her royal highness? Yes, there was a door.

Did that door lead immediately from the one room into the other? Yes.

Where was the bed-room which was occupied by you? By the side of that of Mr. Pergami.

Was there a door leading from the bed-room of Pergami into your room? Yes.

What was done with that door at night? It was always shut at night.

When you say it was always shut at night, what do you mean, was it merely shut or locked? I heard Pergami sometimes try whether it was locked.

Describe more particularly what you have said just now, what you saw Mr. Pergami do? Mr. Pergami was in his room, and was trying to find if the door was locked with a key.

At Augusta did you assist her royal highness in undressing? Yes.

After you had retired to your room, and after you had so assisted her royal highness to undress, did you hear any thing in the room of Pergami? I sometimes heard a whispering in the room of Mr. Pergami.

Who was it that you heard whispering in the room of Mr. Pergami? I cannot precisely say, because I merely heard a whispering.

Where did her royal highness breakfast at Augusta? I do not recollect.

Do you recollect where Pergami breakfasted? I do not recollect, but I saw once a breakfast tray in the room of Mr. Pergami.

In answer to the question put, you stated you had seen her royal highness arrange the turban of the picture, did you ever see the princess arrange, or do any thing to any other part of the dress of Pergami for any of the other pictures? Yes.

State what that was? Her royal highness arranged the neck of his shirt, opening it.

Did her royal highness say any thing; what observation did she make? Her royal highness said she liked it better so, or him better so.

Have the goodness to repeat the words which her royal highness made use of, as if you were speaking them? When the shirt was opened, she said, "I like either him, or it better so."

Interpreter.—The words of the witness are, "Je l'aime mieux comme ça."

Mr. *Garston.*—She was speaking in the presence of Pergami, and consequently it seems, therefore, that it applied rather to the position of the shirt than to the person.

Did you go on board the polacre, the Industry, at Augusta? Yes.

Do you remember where Pergami slept in the early part of the voyage, the first day or two? As far as I can recollect, in a small cabin near the eating cabin.

Was the sleeping place of Pergami afterwards changed? Yes.

Where did he sleep afterwards? In the dining-cabin.

How many doors were there leading into that dining-cabin? There were two doors.

Were they both open, or was one of them closed? One of them was open, and the other closed or shut.

Was the door which was open on the side on which Pergami slept or on the opposite side? As far as I recollect, it was on the other side.

Where did you yourself sleep? By the side of the door which was open.

How long did Pergami continue to sleep in the dining-room? As far as I can recollect, as far as Jaffa.

Did any body sleep in the dining-room besides Pergami? I never saw but one bed in the dining-cabin.

Where did her royal highness sleep? In a cabin near the place where Pergami's bed was.

Where did the countess Oldi sleep? In a cabin on the other side.

Was the cabin in which the countess of Oldi slept, the cabin that communicated with the dining-room? Yes.

Were those three persons the only three that slept there? Yes.

Was the door of the dining-room shut, or open, at night? It was shut.

By shut, do you mean merely closed, or locked? I merely saw it shut; I cannot say whether it was locked with a key.

Did you ever go into the dining-room when Pergami was in bed? Yes.

Did you ever see her royal highness in bed at the same time? Yes.

Was the door opening from her royal highness's cabin into the dining-room, open or shut? Sometimes it was open, sometimes it was shut.

Did you ever see it open when Pergami was in bed, and when her royal highness was also in bed? Yes.

At the time when it was so open, and when they were both in bed, can you state any thing which passed between them, whether they conversed together, or how? I saw them twice speaking together.

Did you land with her royal highness at Tunis? Yes.

Where did her royal highness lodge at Tunis, and where did she reside? At first in the British consul's house at Tunis, afterwards in a palace belonging to the bey of Tunis.

Do you remember the situation of the apartments, the bed-rooms of her royal highness and Pergami, in the palace of the bey at Tunis? Yes.

Describe them? They were separated by a room, which was occupied by nobody, and a small cabinet, or passage.

Do you know whether any other persons of the suite slept near that place? The countess Oldi, my sister, and myself.

Did the room in which your sister and yourself slept open into that room in which there was nobody? Yes.

Did any other room, except yours and that of the countess of Oldi, and the other two you have mentioned, open into that room? No.

Was there any other door leading from that room you have described in which no person slept? I saw none at all.

Was there any door which was closed at night in that room? Yes.

Which door was that? The door which led into the yard into an inner yard which was in the house.

When that door was shut, could any other persons have access to that room or to the sleeping apartments? I do not know.

Do you remember going to Utica? Yes.

Where did you reside at Utica? In a small country house.

Do you know the situation of the apartments of her royal highness and of Pergami at Utica? I do not know at Utica where Mr. Pergami slept.

Do you know at Tunis where Pergami slept? Yes.

Where did he sleep at Tunis? In a room which was near to ours.

Did you at any time at Tunis, in the morning, before her royal highness had left her bed-room, see Pergami? I do not recollect.

Do you state that you do not know where Pergami slept at Utica? I do not know where he slept at Utica.

Did you in the morning at Utica, before her royal highness had left her bed-room, see Pergami? Yes.

Was it before her royal highness was out of bed or not? Before her royal highness was up.

What did you see Pergami do? Pergami passed through our room and went into her royal highness's room.

How long did he remain there? I do not recollect.

Did you afterwards go into the room? I only went to the threshold of the door her royal highness asked me for something.

Did you see whether her royal highness was still in bed? I saw that her royal highness was still in bed.

Was Pergami still in the room? Pergami was in the room.

After her royal highness had spoken to you, what did you do; did you go into the room, or did you retire? I withdrew.

Do you remember going, while you were at Tunis, to a place called Zavouan? Yes.

Do you know in what room her royal highness slept at Zavouan? Yes.

Do you know what room was appropriated for the bed-room of Pergami? I do not recollect.

Do you know where the countess Oldi slept? In the same room where I slept.

What room was there adjoining to the bed-room of her royal highness? The room in which her royal highness dined.

Did you see the bed of her royal highness in the morning? Yes.

Did it appear as if one person only had slept in it, or more than one? It seemed to be much in disorder.

Can you say, according to your judgment, looking at the bed, whether one or two persons had slept in it? I cannot say that two persons had slept in the bed, but it rather appeared to me that two persons had slept in it rather than one.

Why so? I have already told you, because it seemed in great disorder.

Did you embark at Tunis again, for the purpose of prosecuting your voyage? Yes.

You went to Constantinople, and afterwards, in the course of your voyage, did you get to Saint Jean d'Acre? Yes.

Did you go to Jerusalem? Yes.

Where did you land for the purpose of going to Jerusalem? At St. Jean d'Acre.

Do you remember being at a place called Aum? Yes.

How many did your party, as nearly as you can recollect, consist of; you and your attendants at Aum? I cannot say precisely.

Did you sleep in any house at Aum, or did you encamp? We slept under tents.

Did her royal highness sleep under a tent? Yes.

Describe that tent; was it a single tent or a double tent? As far as I can recollect, it was double.

Was there any bed or bedstead placed under that tent? There were two small beds in this tent.

Did you go to the tent for the purpose of assisting in undressing her royal highness? Yes.

Was she undressed as usual? Yes.

Did you leave her undressed in bed, or up? I left her undressed, and she was lying on her bed.

Where was Pergami? Under the same tent.

How was he, dressed or undressed, or partly undressed? He was dressed, but he had no coat on.

When you retired, did you leave them both there? Yes.

At what time in the evening did you pursue your journey? Nearly at six o'clock.

Did you see the other gentlemen of the suite come out of their tents? Yes.

Did you see Pergami come out of a tent? No.

Where did you see Pergami? During the day do you mean.

Where did you see Pergami in that evening, about the time when you were preparing to continue your journey? I saw Pergami near the tent of her royal highness.

Was he dressed, or how? As he had been dressed in the morning, without his coat.

When you say you saw him near the tent of her royal highness, where did you see him first, did you see him come out of any place? I saw him near the tent of her royal highness, but I do not recollect whether he had come out of any place.

You have stated, that you left her royal highness in the morning when she retired to rest upon the bed in the tent, and that you left Pergami there also; were the sides of the tent put down at that time, or were they not put down? As far as I can recollect, it was shut on all sides.

Did you assist her royal highness in dressing in the evening before she commenced her journey? I do not recollect.

Did you again in the course of that journey, before you arrived at Jerusalem, sleep in tents? Yes.

Did her royal highness sleep under the same tent as before? Yes.

Were there two beds under the tent the second time? Yes.

Did you undress her royal highness the second time? As far as I can recollect, I think it was my sister that undressed her.

Do you remember where her royal highness resided when she was at Jerusalem? Yes.

Where was it? In a house which belonged to a convent, as far as I recollect.

Do you remember the situation of the bedrooms of her royal highness, and Pergami, and the countess of Oldi, in that house? Yes.

State how they were situate? They were on the same gallery, all the three.

By being in the same gallery, do you mean that the doors of the respective rooms opened into that gallery? Yes.

Were there any other rooms of the suite that opened into that gallery? As far as I can recollect there was no other.

Do you remember, whether there was any door at the end of the gallery? There was a door to go down.

Do you know whether that door was closed? I do not recollect.

Do you remember any day during the time you were at Jerusalem, seeing Pergami in the bed-room of her royal highness? Yes.

Where was he in the bed-room of her royal highness? He entered the room of her royal highness as I was there, and threw himself on the bed in a ludicrous way, or jesting way.

Was her royal highness in the room at the time? Yes.

Did he remain on the bed? Not long.

During the day-time, while you were at Jerusalem, did you see her royal highness and Pergami in the gallery you have described? I sometimes saw her in the morning in the gallery.

Was Pergami there? Yes.

What were they doing? They spoke together.

Can you describe what you saw them doing there, during the time they were at Jerusalem, in the gallery? I recollect nothing, but seeing them talk together.

At the time you saw them in the gallery, how was her royal highness dressed? With her morning cloak.

Had she any other part of her dress on? She had the same dress on as I have already said that she had, when she was going to bed.

You have stated, that Pergami slept in the dining-room on board the vessel, and that her royal highness slept in her cabin, until they arrived at Jaffa; where did her royal highness sleep afterwards on board the ship? On the deck.

Was there any tent on the deck? Yes.

Was there any bed under the tent? There were two small beds.

Did her royal highness sleep in one of those beds? Yes.

Did you assist in undressing her? No.

Who did? I do not know.

Did any body sleep in the other bed? Mr. Pergami.

Did that continue during the whole voyage from Jaffa to Italy? Yes.

While her royal highness slept in the cabin near the dining-room, where did the little Victorine sleep? I do not know whether she slept in the cabin of her royal highness or in that of the countess Oldi.

After her royal highness went to sleep on the deck, who slept in the cabin which had been before occupied by her royal highness? The little Victorine, and my sister, and I, by turns, to take care of the little one.

What became of the bed that had been occupied by Pergami in the dining-room? I do not recollect.

Do you recollect her royal highness bathing on board the vessel? Yes.

Did she bathe more than once? I only recollect her bathing twice.

Who went with her? Mr. Pergami.

Did they both come up together afterwards, or did Mr. Pergami come up first? Mr. Pergami came to call me on the deck, to go and dress her royal highness.

At the time when you were so called by Pergami to go and dress her royal highness, how long had they been together? Nearly three quarters of an hour.

Who assisted in getting the water for that bath? I saw Theodore Majoochi by the side of the door with a pail of water in his hand.

Have you ever seen her royal highness and Pergami under that tent on board the vessel in the day-time? Yes.

Once, or often? Often.

How did her royal highness employ herself on board the vessel? She worked often for little Victorine.

Do you remember her ever working for any body else? I do not recollect.

You have mentioned that when her royal highness went down to the bath, Pergami came up to desire you to dress her; when you went down, in what state did you find her royal highness? She was in her own cabin, standing.

Had she any clothes on? The same dress that I said she had in the evening, when I undressed her.

That was her bed-gown? It was her bed-gown.

Did you assist then in dressing her? Yes.

You have been asked how her royal highness employed herself on board the vessel; state how you saw Pergami employed? He was almost the whole day lying down on his bed.

When you talk of his being the whole day lying on his bed, what bed do you mean, after you left Jaffa? A little bed which was on deck under the tent.

When you saw him first in the morning, what dress had he on? He had a kind of Greek gown with wide sleeves.

Did you ever see him do any thing to amuse her royal highness? Yes, sometimes.

Describe it, state what you mean? Different tricks or jokes; once I saw him take a cushion and put it under his gown and walk about the deck.

When you say he put this cushion under his gown, do you mean that he put it in front? Yes.

Did you observe what her royal highness did? She laughed.

Do you remember any shirts being made on board, or any thing about any shirts? As far as I can recollect, the countess Oldi made shirts for Mr. Pergami.

Do you remember the princess doing any thing? She often was at work.

Did she do or say any thing about those shirts? She said that she would make them herself.

What passed upon that occasion; state the whole conversation as nearly as you can recollect? Her royal highness said to Pergami that she wished to make those shirts herself.

Did you or any other person in your presence, say any thing to her royal highness on the subject? Pergami said he wanted to have some shirts made, her royal highness said she would make them herself.

What did Pergami reply to that? He smiled only.

Are those the shirts that were in fact made by the countess Oldi? I do not know whether they are the same shirts, but the countess Oldi made some shirts on board.

Did Pergami ever give any thing to you to mend on board the vessel? Sometimes.

Do you remember any thing passing upon that occasion? I do not recollect.

What was it that he gave you to mend? I cannot recollect at present.

Where did you land yourself in Italy? Near Terracina at Campo d'Anza.

Did you return to the Villa d'Este? Yes.

Upon your return to the Villa d'Este, or shortly afterwards, was any change made in the situation of the bed-room of her royal highness? Yes, some time afterwards.

Before going particularly into that, was there any order conferred upon Pergami at Jerusalem? Yes.

What order? The order which is called the order of Saint Sepulchre, the order of the Holy Sepulchre.

Was there any other order instituted at Jerusalem? The order of St. Caroline was instituted, but I do not recollect exactly whether it was at Jerusalem or on board the vessel.

Was that order, or any situation or rank in that order, conferred upon Pergami by her royal highness? Mr. Pergami was to be the grand master of this order.

Was he in fact appointed grand master of the order? Yes.

Did he afterwards wear the decoration of the order? Yes.

You were stating that after your return to the Villa d'Este a change was made in the situation of the bed-room of her royal highness, how long was that after your return? Nearly three weeks after, as far as I can recollect.

Do you recollect the new situation of the bed-room of her royal highness? Yes.

Had it an interior communication with the bed-room of Pergami? Yes.

How did her new bed-room communicate with the rest of the house; was there any corridor or passage? There was a corridor which communicated with the rest of the house.

Was there any door at the extremity of that corridor? Nearly at the middle of this corridor there was a door.

Was that door open, or shut at night? It was shut at night.

In consequence of this new disposition of the apartments, was any alteration made in the wall of the intermediate room? I saw masons at work in order to make an opening in the wall in a room near that of her royal highness, for the purpose of opening a door.

In passing from the bed-room of her royal highness into the bed-room occupied by Pergami, did you go through that room, and

through that opening that had been so made? Yes.

Do you remember, upon your return to the Villa d'Este, whether any new table was formed, any dining table for the relations of Pergami? Yes.

Who dined at this table? The mother of Mr. Pergami, his sister Faustina, his brother Louis, and one of his cousins.

What was the name of that cousin, do you recollect? He was called Pergami.

Did he hold any, and if so, what office? He was accountant.

What situation did Louis Pergami at that time hold? At our return he was made prefect of the palace.

Was Faustina a married woman? Yes.

Where was her husband? In the house with her.

You have stated before, that the mother of Pergami was called "Nonna," how was she called after your return from Greece? Donna Livia.

Do you remember the theatre at the Villa d'Este? Yes.

Did you ever see Louis Pergami act any thing upon that theatre? Yes.

Did you ever see him play any thing upon that theatre with her royal highness? Yes, he once dressed like a harlequin, and her royal highness dressed like columbine.

When Pergami first came into the service of her royal highness, or shortly afterwards, did he wear any ear-rings? Yes.

Did he continue to wear those ear-rings, or were they afterwards changed for others? He changed them for others.

What became of the ear-rings he wore at first, that he had so changed? I saw them afterwards in the ears of her royal highness.

Do you remember whether the little Victorine had any ear-rings? Yes.

Did she continue to wear those ear-rings, or were others given to her? They were changed at the Villa d'Este.

What was done with the ear-rings which the little Victorine wore, and which were changed? I saw them also afterwards on the ears of her royal highness.

When you saw them afterwards on the ears of her royal highness, was it at the same time that you saw the other ear-rings worn by her royal highness? Yes.

Were they united together, or separate, or how; describe the manner in which they were worn? She had two upon each ear, but separate; one of each pair upon each ear.

Describe how they were put into the ear; were they both put into the ear separately, or was one put into the ear hung upon the other? They were both in the same opening or hole.

Do you remember any presents that Pergami at any time received from any person? Sometimes presents from her royal highness.

What kind of presents were they? Some things in gold or diamonds, but which I cannot well describe.

Do you remember the kind of cap that Pergami wore as courier, when he first went to Naples? Yes.

Do you remember seeing any cap of the same shape and form worn by any body? I saw a cap of red silk, of the same make, on the head of her royal highness.

When was that, at what place? It was made at Naples.

Do you remember any black silk cravat worn by Pergami? He generally wore in the morning a black silk cravat.

Do you remember ever seeing that black silk cravat any where else? In her royal highness's room.

Have you seen that once, or more than once, or several times? Several times.

Do you remember observing the slippers of Pergami? I know once he had white slippers.

Did you ever see those white slippers any where? Sometimes in her royal highness's room.

What room? In the sleeping-room, the bed-room.

Do you ever remember seeing any thing else, any part of the dress of Pergami, in the bed-room? I do not recollect.

Do you remember the second night that you slept under tents in going to Jerusalem, at Bagosa, seeing any articles of dress in the tent under which her royal highness slept? I saw something belonging to Pergami, but I cannot recollect of what description it was.

When you say you saw something belonging to Pergami, do you mean by that any part of the dress of Pergami or not? Yes.

Do you remember the residence of count Pino? Yes.

Did her royal highness ever go to pay a visit to count Pino before she went into Greece? Yes.

Did you sleep near or far from the princess at the house of count Pino? Near the princess.

Was there any door opening from your room into the bed-room of her royal highness? Yes.

Did Pergami come into your room during that night? When I had lain down I saw Pergami passing through my room.

When you say you saw him passing through your room, where did he go to? He was going towards the room of her royal highness.

Was there any light in your room? A little night lamp.

Did you see him come out again? I fell asleep, and did not see him come out.

Do you recollect how long, or about how long, that was before you went on your voyage to Greece? It was not very long before, nearly three weeks.

Do you know the place called la Barona? Yes.

To whom does it belong? To Mr. Pergami.

Do you know what it consists of? A house and an estate.

How do they call the house? Villa Pergami.

Besides the house which you call Villa Pergami, is there any other house upon the domain? A farmer's house.

During the time that you were at the Villa d'Este the second time, after the return from Greece, did her royal highness go to the Villa Pergami? Yes.

Did you accompany her? Yes.

Do you remember the situation of the bedrooms of her royal highness and Pergami at the Barona? Yes.

Describe them? They were separated by a passage, where there was a stair-case going down a small green cabinet, and the bedroom of her royal highness was by the side of it.

Where did that stair-case lead to? The stair-case led down stairs, in order to go out of the house.

Was there any corridor or passage? Yes, there was a corridor.

Was there any door in that corridor? Yes.

Was that door in the corridor shut or open at night? It was shut during the night.

Could any person, when that door was shut, get into the rooms of her royal highness and of Pergami? No, unless they passed by that passage up the stair-case which I have alluded to.

Must they go down stairs, and then come up for that purpose? It was necessary to go down, and then come up on the other side.

Did the other doors of the bed-rooms of the suite open into the same corridor? There were four other doors which opened on this corridor.

Were they on the same side of the door which shut on the corridor, or not? The four doors were in this line, and the door of the corridor was in this direction, [describing it].

When that door upon the corridor was shut, did it shut out the communication between the princess's room and these four rooms you have described? Yes, when the door was shut.

How long did you continue at the Barona at that time? The first time we only remained there two or three days.

Did you afterwards return there? Yes.

How long did you remain there then? Nearly two months.

Were Pergami and her royal highness there during the whole of that time? No.

Where did they go to? To Germany.

How long did they remain there before they went to Germany? Nearly one month.

Did you make any observations upon the conduct of her royal highness and Pergami during that month, how they conducted themselves towards each other? I made no particular observation.

How did they address each other? The princess often said "thou" (toi), to Mr. Pergami, and Mr. Pergami addressing the princess, merely said "princess."

Do you know what the French mean by "tutoyé?" Yes.

What do they mean? To use the second person in the singular to each other.

You say, that Pergami addressed her by the name of princess, how did the other persons in the suite address her? When she was addressed, she was commonly called "Your royal highness."

Did you observe, while you were at the Barona, Pergami doing any thing to her royal highness? I do not recollect.

Do you recollect any balls at the Barona? Yes.

Who attended those balls? People of a low condition.

Did you ever hear her royal highness and Pergami speak about the conduct of the persons at the balls? Yes.

Did you yourself make any observations upon the conduct of the persons at the balls? Yes.

State what you saw of the conduct of the persons at the ball, which was also seen in the presence of her royal highness? In the presence of her royal highness I saw nothing particular.

Did you ever hear Pergami tell her royal highness any thing as to the conduct of any of the parties? Yes, once.

What was it? Mr. Pergami related a history or story which had happened in the house.

During the time that you were residing at the Barona did you go to Turin? Yes.

How long did you remain at Turin? Some days.

In the course of your former examination you stated a journey to Venice; was that before you went into Greece? We were twice at Venice; the first time before we went to Greece, and the second time before we went to Germany.

When you were first at Venice, at what inn were you? As far as I recollect, it was at the Grande Bretagne.

Did you continue to reside in the hotel la Grande Bretagne, or did her royal highness remove to another house? She removed to another house near the inn.

How long had she continued, as nearly as you can recollect, at the hotel la Grande Bretagne before she went to the other house? I believe it was only two days.

You mentioned that Mr. William Burrell and Dr. Holland were on that journey to Venice when the princess removed from the hotel la Grand Bretagne to a private house; did Dr. Holland and Mr. Burrell remain at the inn, or did they go to the private house? As far as I can recollect, Dr. Holland and Mr. Burrell remained at the inn.

You mentioned that while you were residing at the Barona you took a journey into the Tyrol; to what place did you first go? Do you mean, to remain there.

Did you take a journey into the Tyrol and into Germany? Yes.

Do you remember arriving at a place called Scharnitz? Yes.

Do you remember when you were at Scharnitz Pergami being sent to any place about passports? I recollect Pergami went to Inspruck in order to obtain passports.

Do you recollect at what time of the day it was that Pergami set out to go from Scharnitz to Inspruck? I do not precisely recollect, but I believe it was in the morning.

Do you recollect the room that her royal highness slept in, and what arrangement was made for sleeping that night at Scharnitz? Yes.

Who went to bed in that room besides her royal highness; did any body? Myself.

At what time did you go to bed? Nearly ten o'clock.

At what time did her royal highness go to bed? At the same hour.

In the same room? In the same room.

Did Pergami return from Inspruck that night? Yes.

As well as you can recollect, how long after you were in bed? I do not recollect precisely, because I had already fallen asleep.

Did you sleep in the same bed with the princess, or in another bed? In a small bed which was laid on the floor.

Upon the arrival of Pergami, did you receive any orders from her royal highness; did she tell you what you were to do? Her royal highness told me that I might take my bed and go.

Had you seen Pergami before those directions were given you? Yes, I saw Mr. Pergami the moment those orders were given to me.

Where did you see him? In the room of her royal highness.

In the bed-room? In the bed-room.

Did you in consequence of those orders go away for that night? I left the room the same moment.

When you went away, did you leave Pergami in the room, or was he gone? I cannot exactly say whether Mr. Pergami was still in the room when I left it, but I think he was.

If you cannot tell with perfect accuracy, can you tell about how long it was after you had been in bed when Pergami arrived; was it one, two, or three hours, or how long? It was nearly two hours, or two hours and a half.

Do you remember going with her royal highness to Carlsruhe? Yes.

Do you remember the disposition of the rooms of her royal highness and Pergami at Carlsruhe? Yes.

State how it was? They were separated by the eating room.

Who made the princess's bed? I do not know whether it was my sister or some other person.

Whose business was it to make the bed of Pergami? I do not know whether it was a servant, but I know there was a woman in the inn whose business it was, to make the beds all over the inn.

While you were upon your visit at Carlsruhe, did you go to the baths of Baden? Yes.

Did her royal highness sleep there one night? Yes.

Do you remember the situation of her bed-room with reference to Pergami's? No, I do not recollect.

Do you remember at any time before you went to bed, going into the princess's room at the baths of Baden? Yes.

Was there any sofa in that room? I do not know whether that was a sofa, or some chairs near each other, but it rather appeared to me it was a sofa.

When you went into the bed-room of the princess in the evening, did you see the princess there? Yes.

Was she alone, or was any person with her? It was Mr. Pergami; it was not very late; it was in the twilight, between day and night.

Was the princess standing or sitting? She was sitting.

Where was Pergami? Sitting by the side of her.

Did you observe the hand or the arm of Pergami, where it was? Pergami's arm was passed round behind her royal highness.

When you say behind her royal highness, describe particularly what you mean—behind what part? It was passed behind her waist.

Where did the hand come? The hand came out round her waist on the other side.

How was her royal highness sitting; where was her head? Her head was leaning against Pergami's arm.

Did you go from Baden to Vienna? Yes.

How long did you stay at Vienna? Three or four days.

Do you know whether her royal highness went to court at Vienna? No.

What do you mean by "no;" that you do not know, or that she did not go to court? I mean that she did not go to court.

Did you go from Vienna to Trieste? Yes.

How did her royal highness travel upon that journey from Vienna to Trieste, in what kind of carriage? In a small very low open carriage.

Who travelled with her in that carriage? Mr. Pergami.

Did any body else travel with her? No one but Mr. Pergami; I saw no one else.

Did she go at the same time with her suite, or did they follow her after an interval? Her royal highness arrived at Trieste before her suite.

Did you go on from Trieste to Milan? Yes.

And to the Barona? Yes.

Did her royal highness travel in the same way? I believe her royal highness was in the same carriage, because she was always before us.

After your return to the Barona the second time, where did Pergami's mother dine? At her royal highness's table.

Where did Louis Pergami dine? As far as I can recollect, also at her royal highness's table.

Did you afterwards go from the Barona to Rome? Yes.

Did you pass by Rimini? Yes.

Did you stop at Rimini? Yes, one night or two; I do not know which.

Was her royal highness well, or indisposed, at Rimini? She was indisposed.

Did you attend her, or who did attend her? I attended her a part of the evening.

Do you know who attended her the other time? The remainder of the evening, I do not recollect.

Was she indisposed upon the road before she came to Rimini? Yes,

At what place? At a small village, the name of which I do not know.

Did you attend her? No.

Who remained with her? The countess Oldi and Pergami alighted from the carriage, and I remained in another carriage.

How long did her royal highness remain in that place? Nearly one hour.

Did you go into the room at all? Not at all.

When you arrived at Rome, where did you first reside? At an inn.

What inn was it? The inn the Europa.

Did you afterwards go to a house called Ruffinelli? Yes.

Do you know the relative situations of the bed-rooms of her royal highness and Pergami at Ruffinelli? Yes.

Describe them; did they communicate with each other? They were near each other, and they communicated internally one with another.

Do you remember ever having seen Pergami in his bed there? Once.

Where was the princess? I do not know.

Was he confined to his bed by illness? Yes.

How long did that continue? A few days.

Did you ever see her royal highness go into or come out of the room during that time? Yes.

Once or more than once? More than once.

Where did you to go from Ruffinelli? To the Villa Brandi near Rome.

During any part of this journey to Rome, did you travel in the same carriage with her royal highness? Yes.

Who was in the carriage besides her royal highness and you? Mr. Pergami.

How did you sit; in what way? Mr. Pergami sat between us.

Did you take any notice of his arms or hands, how they were? I do not recollect.

Do you recollect any thing particular that passed in the carriage between Pergami and her royal highness? I recollect nothing particular.

Do you remember at the Villa Brandi any bust being taken of her royal highness, any sculpture? Yes.

By whose order was that? I do not know.

Was a bust taken of any body else? That of Mr. Pergami.

Did you see her royal highness and Pergami sit for those busts? Yes.

Do you know where they were afterwards placed? No.

Was this at the Villa Brandi, or before you got to the Villa Brandi, or afterwards? At the Villa Brandi.

Do you know at the Villa Brandi what was the situation of the bed-rooms of her royal highness and of Pergami? Yes.

Describe how they were? Pergami's room was situated in an open gallery, and the entrance into her royal highness's apartment was in the same gallery.

How far from each other? About fifteen paces.

Did you ever see her royal highness in the evening come out of her bed-room, after you had undressed her? I do not recollect.

In what room did her royal highness dress and make her toilet? In her bed-room.

Do you remember ever seeing Pergami present upon those occasions? Yes, I saw him sometimes.

Do you remember some persons coming to dinner before her royal highness was dressed one day? Yes.

Which room did they go into? Into the first room.

Where was Pergami at that time? In her royal highness's bed-room.

Were you there also? Yes.

Did her royal highness change her dress before she went to the company? Yes.

Did she change it entirely? I do not recollect.

Where was Pergami during the time when she was changing her dress? Part of the time he was in the room.

How long did you continue at the Villa Brandi? Nearly two months.

Where did you go to from the Villa Brandi? To Sinigaglia and Pesaro.

What was the name of the first house you went to at Pesaro? The Villa Caprili.

How long did you continue at the Villa Caprili? I only remained there two months, or nearly.

Do you know the situation of the room of her royal highness at the Villa Caprili? Yes.

Describe it? Her royal highness had three rooms, which led into a dining-room.

Where were the rooms of her suite? Do you mean of the gentlemen.

State those of the gentlemen first? They were in a separate wing of the house.

How did that wing communicate with the body of the house? By means of two arches which were erected.

Did her royal highness have any conversation with you about those rooms, and about the apartments of the suite? I do not recollect.

How did the persons who were in that wing,

after her royal highness came there, get into the body of the house? They had a stair-case which went down into a court, and they went across a court or yard in order to enter the house.

Where was the bed-room of Pergami? It was a room near that of her royal highness.

Was there any communication between them? Yes.

Had her royal highness a small cabinet below? Yes.

Was there any sofa in that cabinet below? Yes.

Did you ever see Pergami in that cabinet upon the sofa? Yes.

Have you ever seen him there when the princess was there? Yes.

State how Pergami was sitting, or in what position he was upon the sofa? He was lying down on the sofa.

Where was the princess, and what was she doing? She was sitting on the edge of the sofa.

What was she doing? I do not recollect what she was doing, I recollect she was sitting on the edge of the sofa.

Did you ever see her royal highness in pantaloons? Yes.

Where? At Pesaro.

At the Villa Caprili? Yes.

Was Pergami present at the time? I saw him once.

Can you tell us what he said, or whether he said any thing; what passed between them? Pergami said to her royal highness, that she looked better so.

Give the phrase he made use of, as far as you recollect it? Pergami turned round her royal highness, looking at her, and said, "How pretty you are, I like you much better so."

Did you observe the bed of her royal highness at the Villa Caprili? I made no observation.

Was it a small bed for one person, or a large bed for two? It was a large bed.

At the time when you describe her royal highness as being in pantaloons, what was the state of her neck and her breast? Uncovered; she was at her toilet, and was dressing herself.

How far is the Villa Caprili from Pesaro, from the town? Two or three miles.

Do you remember, upon any occasion, Pergami going from the Villa Caprili to go to Pesaro? Yes, sometimes.

State what passed between her royal highness and Pergami? The same things that I said had passed at Messina.

Describe it? They took each other by the hand, and the princess said, "Adieu, mon cœur, mon ami;" and Pergami said, "Au revoir, princesse," till we meet again, princess.

Did you observe Pergami do any thing more? I do not recollect that I observed any thing else.

Was there a chest of money at Pesaro? Yes.

Do you know who had the key of that? I do not recollect.

Did you ever see Pergami with the key? Yes.

At the time when her royal highness resided at Naples, had she any chaplain as forming part of her suite? Prayers were said in her house every Sunday.

Was it so at the Villa Villani, and the Villa d'Este, and the Barona? No.

Did you ever see it after you left Naples? Yes.

Up to what time? While we were at Genoa.

Did you see it at all after you quitted Genoa? I never saw it again.

Did you ever see her royal highness go to churches with Pergami? Yes.

State what she did? I saw her once fall upon her knees by the side of Pergami.

Did you ever hear her say thing about the father of Pergami? About Mr. Pergami's father, in what manner?

Do you remember her saying any thing about any masses? Yes.

State what that was? Her royal highness told me, that she intended to have masses said for the soul of the father of Mr. Pergami.

At the time when you were first at the Villa d'Este, was her royal highness visited by the nobility of that neighbourhood? Sometimes.

How was it at the Villa Villani, before you went to the Villa d'Este? They visited her royal highness sometimes also.

Did that continue up to the time, when her royal highness quitted the Villa d'Este? Some persons continued to visit her, and some did not.

Did her royal highness ever say any thing to you about the Cassino at Milan? Yes.

What was it? Her royal highness said it had been put to the vote, whether she should be admitted at the Cassino at Milan, or into the Cassino at Milan.

What further did she say? She said that it had been negatived.

Do you remember in the garden at the Villa d'Este a chair upon wheels? Yes.

Have you seen Pergami and her royal highness ever do any thing with that chair? I have seen them play with this chair, and push it forward.

Who was in the chair? I do not recollect.

Did you ever see her royal highness and Pergami in the kitchen at the Villa d'Este? I saw them twice.

What did you see them do there? They were standing in the kitchen.

Was any thing to eat there? There was something to eat, but I did not see them eat.

When you first arrived at Naples, the morning after you describe her royal highness to have gone to the opera, what time in the morning did you dress her royal highness? I do not precisely recollect; I believe it was between ten and eleven o'clock.

After you had dressed her royal highness did you leave her any where? I remained in her room.

Do you know where her royal highness went to? Into a small room where there was a chimney.

Is that the small cabinet which you before described? Yes.

How long did her royal highness remain in that cabinet? I do not precisely recollect.

Can you state about what time? Nearly an hour, or an hour and a half.

During that time did you see Pergami any where? No.

Was the door of the cabinet open or closed? It was closed.

Do you know whether the outer door of the bed-room in which Pergami slept was open or closed? When I passed by the door I always saw it shut.

The *Solicitor General* stated that he had no farther questions to ask this witness.

The counsel for her majesty were asked, whether they were desirous now to enter upon the cross-examination?

Mr. *Brougham* stated, that he was unwilling to press upon the witness, after the fatigue of so long an examination in chief; but feeling at the same time that inconvenience might result from the division of the cross-examination, he desired to leave the matter entirely in the hands of their lordships.

The counsel were directed to withdraw, and the further consideration of the said bill was adjourned to to-morrow morning.

HOUSE OF LORDS.

Friday, Sept. 1.

The order of the day being read for the further consideration of the bill, intituled "An act to deprive her majesty," &c., counsel were called in.

Then *Louisa Demont* was again called in, and cross-examined as follows by Mr. Williams, through the interpretation of Mr. Pinario.

You are understood to have stated, that you have been in England thirteen months? Yes.

Have you been out of England during those thirteen months? No.

You are understood to have stated, that you do not understand English? I understand English a little, but I cannot speak it with ease.

Have you had any lessons in English? Yes.

How long have you taken lessons in English? Four or five months nearly; I do not recollect exactly.

Was that up to the present time, or some time back? I have been these two last months without taking any lessons.

Have you not spoken English at all? Sometimes.

Did you understand the questions that were put to you yesterday before they were translated? Yes, I can understand English better than I can speak it, because I cannot speak to make myself understood easily.

Though you could not explain yourself, you understood the questions without explanation? I did not understand them all, but I understood one which Mr. Solicitor General put to me yesterday.

Do you mean to represent, that of the numerous questions which were put by Mr. Solicitor General, you understood only one before they were translated? I understood some of them, but not all; besides I did not understand so perfectly as to be able to answer.

But you did understand most of the questions?

It was objected, that the witness had not said she understood most of the questions.

Had you understood most of the questions, aye or no? I understood some of them.

Did you understand the greater number or not? I understood some of those which were the shortest, some of them.

Since you have been in England, have you always borne the same name, Louisa Demont? No, I have had another name.

Be so good as to state what that other name is? I took the name of the place where I was born, Colombier.

Did you take a title as well; were you called countess Columbier? No.

Nor were ever so called, were you? I was called so but once.

By once, do you mean one time? I mean by only one person.

By once, you mean one person do you? I only recollect one person that called me countess.

Was that frequently? I only heard it once.

Where were you living at that time when the person called you countess? In Frith-street.

Frith-street, Soho-square? Yes.

Before that time you had lived in Oxford-street, had not you? Yes.

How long did you live there? About three months, as far as I can recollect; I do not know precisely.

During the time that you lived there, nobody called you countess, did they? I do not recollect that any body called me countess; I do not recollect it at all.

Will you swear that they did not? I will not swear to it, but I cannot recollect that any body called me countess.

Will you swear you did not pass in the house by the title of countess? It was Mr. Krouse who placed me in that house, I do not know by what title he announced me, or described me.

Do you mean to swear you were not called, not behind your back, but in your presence, by the title of countess, while you were living

in Oxford-street? I will not swear it, but I do not recollect it.

Was it not something new to you to be called countess? I do not recollect that I was so called there; I recollect my being called so in Frith-street, but not in Oxford-street, or elsewhere.

Was not it something new to you to be called a countess? I was not called countess.

Then you will swear that in that street of which you have been speaking, Oxford-street, you were not called countess in your presence—to your face? I will not swear it, but I do not recollect it.

What name did you pass by before; how were you called before you went to Oxford-street? Colombier.

How long have you been called Colombier? Since I have arrived in England, beginning at Dover.

Have you not answered, when in Oxford-street, to the title of countess Colombier to a person or persons addressing you? I do not recollect that.

Will you swear you did not? I cannot swear it, but I cannot recollect it.

As you say you cannot recollect whether you were called countess there, or not; was it not a matter of some novelty to you to be called countess at all? I never was called countess except this one time, that I recollect, in Frith-street.

You are understood to have stated yesterday, or the day before, that you accompanied the princess to Naples? Yes.

Do you now recollect whether the princess went to the opera the first or the second night of being at Naples? The second night after her arrival at Naples the princess told me that she was going to the opera.

Then it was the second night? It was the second night.

You are understood to have stated, that there were two beds in the apartment of the princess at Naples, a larger and a smaller bed? Yes.

The smaller bed you are understood to say was the travelling bed of the princess, was that so or not? As far as I recollect, it was the travelling bed of her royal highness.

The smaller one of which you have spoken? The smaller one.

If you are rightly understood, you have said, that upon the morning after the princess was at the opera, you perceived that the larger bed had the appearance as if two persons had slept in it, was that so? I said that the bed looked as if two persons had slept in it.

What did you mean by saying in a previous part of your examination, that you had observed the large bed, that it had been occupied, but that you could speak no more about it?

The counsel were informed, that they had a right to repeat what the witness had said, and then to ask the witness to it; but that if any doubt arose whether they were correct in stating that the witness had said so and so, the only way of disposing of that doubt was to turn back to the evidence of the witness, and to read that which she had stated.

When you were first examined upon the subject, and when you were desired to describe more particularly, did you not state you could not well recollect whether two persons had slept in it?

Then the following extracts were read from the Minutes:

"Did you observe the larger bed, what appearance that had? I did.

"What observation did you make upon the large bed? I observed it had been occupied.

"Can you inform their lordships more particularly of the state of it? I cannot.

"Was it much or little deranged or tumbled? Not much.

"You have stated what was the condition of the small travelling bed on the second night after the princess's arrival at Naples; what was the state of that bed on the subsequent nights during her residence at Naples? I made no observation upon it afterwards.

"State what was the appearance, on the second night, of the great bed, whether it had the appearance of one person having slept in it or more? More than one person."

Mr. *Williams*.—When you were asked two or three questions before, and then to describe more particularly the appearances of the bed, did you not understand that to apply to persons sleeping in it? I understood that I was asked to say in what condition the bed was, whether it was much deranged.

Did you not understand that you were to describe particulerly to their lordships what the derangement was? I did not understand I was to explain it particularly, but I could explain particularly at present.

You gave some account of how some of the family slept at Naples; state the different rooms in which they slept; do you know where Hieronimus slept at Naples? The door of Hieronimus's room was in the same corridor in which was the door of her royal highness's room, as I have already stated.

Had sir William Gell and Mr. Keppel Craven their servants sleeping in the house at Naples at that time? I saw their servants in the day-time, but I do not know whether they slept in the same house.

Both sir W. Gell and Mr. Keppel Craven had however men-servants at that time? Each of them had one servant.

A man-servant? Yes.

You mean to say, that you do not at all know where those servants of sir W. Gell and Mr. Keppel Craven slept at Naples, at the time at which you have been speaking? I do not know where the rooms were in which they slept, I never heard it mentioned.

You do not know where either of the ser-

vants of sir W. Gell or Mr. Keppel Craven slept any one night during your stay at Naples? I will not swear it, but I do not at all recollect it.

Did you mean to swear that you do not recollect where Mr. Craven's servants slept any one night during your stay at Naples? At this moment I do not recollect it at all.

That you will swear? At this moment I do not recollect it at all.

Where did you sleep yourself at Naples? In a little apartment above, above her royal highness's.

Did you sleep alone in that room? We had two rooms, in the one of them I slept, and in the other Annette Preising, during the time that she remained in the house.

Did you sleep alone in that room? I slept alone in that room.

Every night? Every night.

That you will now swear? That I slept in my room alone? Yes, I slept every night in my room alone.

The whole night? The whole night in my room.

Alone? Alone.

Every night, and the whole of the night alone? I slept all alone in my room.

Are you understood rightly, when you are taken to have said, that one night you saw Pergami coming out of his own room in a state of undress at Naples? Yes.

That was at Naples? At Naples.

How soon after your arrival at Naples was it, as well as you can recollect? It is impossible for me to say; I do not recollect it.

State it as nearly as you can recollect? I cannot say precisely, we have been a long time at Naples, I cannot exactly say now.

State within a few nights, not tying yourself down to the precise night? We were four months at Naples, I cannot recollect at what period it may have been precisely.

It is not required by the question that you should speak precisely, or within a week, but state the time as nearly as you can? I cannot recollect, we were four months at Naples, whether it was one week sooner or one week later.

Was it about a month after, do you think? I cannot recollect whether it was one month or two.

Or three? I again say I cannot recollect; it is so long since this has taken place, that I cannot fix the time.

Was it towards the beginning, the middle, or the latter end of her royal highness's residence there? I do not recollect.

You have no memory at all about it, whether it was towards the beginning, the middle, or the end of the residence; and have no notion of the time? I do not recollect at what period it was.

Then you are to be taken to say, that it was one night at some time or other at Naples? Yes.

You were not twice at Naples with the princess, were you? We were once at Naples, and once in the Gulf of Naples, but we did not land.

You resided in the town only once? Yes.

Then you are understood to say that this one night you saw Pergami coming out of his room undressed? Yes.

Where were you standing, or in what position were you when you saw him first upon that occasion? I was standing at the door which came out of the room of her royal highness.

You spoke of a corridor or passage leading between Pergami's room and the princess's? Yes.

The question refers to that same corridor or passage to which the last question alluded? I was standing at the door which came upon this corridor, from the room of her royal highness.

Pergami's room, if you were understood rightly, was at the other end of that corridor from the princess's room? Not quite at the bottom.

Nearly at the other end of that passage? It was rather nearer to the end of the passage than on this side.

Was there not a staircase between the princess's door and Pergami's room door by which you went usually to your own apartment? In this position [describing it] was the door of her royal highness; here there was another door leading into a cabinet, in which there was another door leading to a corridor, through which I went to the staircase which led to my apartment.

Had you a light upon that occasion, or had Pergami a light, or had neither of you one? Pergami had a candle in his hand.

Had you any? No, because I was on the point of going.

Going where? To go out; I was still speaking to her royal highness; I was at her door.

When you say "going," where were you going? I was waiting for her royal highness to give me leave to go, as she did every night.

What did you mean, when you said, a minute ago, "I was going?" Because her royal highness was undressed, and I was expecting every moment permission from her to go.

To go where? To withdraw to my own room.

Without a light? I had no light.

Did you, in point of fact, escape through the apartment of her royal highness? I was there, and I escaped through this door: I only traversed this part of the passage [pointing out their situations.]

Are you speaking of that part of the passage between the princess's room and Pergami's? Yes, the interior passage.

When you traversed that part of the passage, in order to make your escape, as you state, had you not to go towards Pergami in the interior passage? I was here, and I

escaped through this door, and Mr. Pergami's door was here [pointing them out].

When you made your escape from the place where you were standing, at the door of the princess, had you not to go nearer to where Pergami himself was? Mr. *Garston.*—She says, "I made some steps," and then she turns off to point it out; "I made some steps in the corridor to go to the door that led out."

Were not those steps nearer to Pergami's door, and to where Pergami was?

The Witness was directed by their Lordships to give her answer in words, and not by signs, which could not be seen by some of their Lordships.

When you made your escape, as you have several times described, by means of the door, did you not get nearer to Pergami in so doing? Yes.

Did Pergami come forward, or did he run back into the room or what? I saw Mr. Pergami over against me, coming towards me.

Then he kept coming nearer to you to meet you? I did not see that, because I went out precipitately.

Then how do you know that he came towards you? Because I saw him coming in a direction towards me.

Had not the king of Naples lent a palace or a house to the princess? Yes.

The question refers to that night when you describe that the princess acted the part of the Genius of History? Yes.

Were not the king and queen of Naples there? I saw the king of Naples in the room, but not the queen. I heard she was indisposed, and obliged to leave the room at an early hour.

Were there not ladies also of the Neapolitan court upon that occasion? I saw several ladies in the room, but I did not know whence they were from.

Were there not also, of the Neapolitan court, a considerable number of the nobility and gentry? I saw a great number of gentlemen and ladies in the room.

Did not two other ladies sustain characters at the time when the Queen appeared as the Genius of History? When her royal highness went down first in that character I did not go down, but I remained above in the anti-chamber.

Then you yourself did not see the representation of the piece, whatever it was, that was got up? I was not present during the representation of that piece.

Did you see any other lady dressed up as representing Victory? I do not recollect seeing any other lady; there were several costumes, but I do not recollect further.

Mr. *Garston.*—She now adds, "I saw many costumes, but I do not recollect seeing one of Victory."

Were not those costumes, by whomsoever worn, used upon that occasion on which the princess appeared as the Genius of History? I saw different costumes during the same evening.

Did you see one representing Fame upon that occasion? I do not recollect; I saw several costumes, but I made no observation about it.

However that may be, when the princess was dressed up in the character of the Genius of History, did she not go into that room in which the Neapolitan persons, male and female, were? I only saw the princess go down, but I saw no further; I only saw her on the top of the stair-case which she was going to descend.

Was that towards the room in which the Neapolitan nobility and gentry were assembled? Yes.

Have you any doubt whatever that the princess did go upon that occasion to appear before that assembly? I believed that the princess was going to appear amongst them.

When the princess was dressed as a Turk, were not other persons dressed in that manner, so as to form a group? I only saw the princess in her apartment; I did not go into the room; I only entered the ball-room towards the end of the ball.

Did you see Hieronimus? I did not see Hieronimus.

Sicard? I saw neither Hieronimus nor Sicard.

Nor any other of the suite of the princess, did you? I saw no one of the princess's suite, except towards morning, when I went into the ball-room towards the end of the ball.

Before the ball began, did you not see some of the princess's suite dressed as Turkish peasants, or as Turks of some description or other? I do not remember that I saw any body.

Did not the princess travel on horseback in the journey by land to Jerusalem? Yes; that is to say, as far as I recollect, it was an ass.

Did not you travel in some kind of carriage? Yes.

With the countess Oldi? Yes.

Did not you travel after the princess? Sometimes we were before, sometimes after.

Did you not, during that journey, attend upon the countess Oldi? I did not wait upon the countess Oldi.

Did you not continue to be with her, whether waiting upon her or not? I always was in the same palanquin with her.

Did not your sister attend upon the princess that journey? My sister was always on horseback near the princess.

That is, the princess and your sister travelled on horseback, and you and the countess Oldi in a carriage, throughout the whole of that journey? Yes.

Was not your sister, during that journey, constantly near the princess? When we stopped I sometimes was auprès de (near) her royal highness.

Upon that journey, did you wait upon the princess? Yes.

Did not your sister? Yes.

During that journey, did not the princess rest by day and travel in the night? She rested during the day.

And travelled during the night? Yes.

You have described stopping at Aum? Yes.

Do you or do you not mean to say, that you undressed the princess at Aum? I recollect I was under the tent of the princess, but I do not recollect whether I undressed her or not.

Do you mean to say, that the princess was undressed under the tent at Aum? When I left the princess she was in a white petticoat.

Do you mean to say, that the princess was undressed at Aum? She had pulled off her upper habiliments.

Do you mean by that, the dress in which she had been riding, travelling? Yes, a gown or robe, which was open.

Do you mean more than the outer garment, of whatever description? I do not recollect if it was any thing more.

Then her dress remained as it had done all the night in which she was travelling, except that exterior dress of whatever description?

[The question was proposed and the answer returned through Mr. *Garston.*]

Her royal highness was in a white gown or petticoat (jupe) alone.

Was the princess's dress in any other way altered, except by having the exterior habiliment taken off? [*Through Mr. Pinario.*]—I do not recollect.

When that exterior habiliment was taken off, did not the princess put on a night gown, or a bed gown or something of that description in order to repose on a sofa? When I left her royal highness she was in a white petticoat, I do not know what she did after I had left her.

Did she stop upon the journey to Jerusalem another night? Yes.

Did you attend her upon that occasion the second time? I helped her royal highness to dress.

Upon that second occasion, when the princess stopped from travelling, do you mean to say that she undressed? I did not see her royal highness when we arrived, I only saw her when she arose in the evening.

Upon that occasion, when you did see her in the evening, was she dressed or undressed? When I entered her room she was dressed in that white petticoat that I have already said.

Mr. *Garston.*—She now speaks of the word "robe" instead of "jupe;" she now says, I must be mistaken, for it was the same jupe of which I spoke before.

When the princess was about to start, had she more to do to her dress than to put on the exterior habiliment of which you have made mention before? I do not think she had any thing else to put on.

You have described that you took ship at Tunis when you were going to Jerusalem? That we took ship at Tunis; we went on in the same vessel in which we had come.

You went on from Tunis? Yes.

The crew consisted of about two or three-and-twenty people, all together, did they not? I believe it did, thereabouts.

Then there were, besides the crew, ten or a dozen people in the suite of the princess were there not? I believe nearly so.

Do you remember taking on board at Tunis a harper? Yes.

A Jew? Yes.

Upon that occasion we have been told the cabin of the vessel, the extreme of it, was occupied by the princess and countess Oldi? There were two cabins, one for the princess and one for the countess Oldi.

Where did you sleep? In a cabin near the dining-room.

Did it open into it? It opened into the passage.

What passage? A passage that there was to go all along the vessel.

Where did Hieronimus sleep during that voyage? Hieronimus slept in another cabin in the same direction as mine, the last on that side.

When any of the crew slept when they were at liberty they went into the hold, did they not? I do not know where they went.

Do you know where the harper, of whom you have spoken, slept during the voyage? I do not recollect exactly where he slept, but it was, I believe, near the table where we dined; I do not recollect exactly.

At what distance was it from the place where you slept? It was at the other end of the vessel.

You slept in your own birth every night?—Was it at the beginning or afterwards?

The whole voyage from Tunis till you landed? I said that when her royal highness slept on the deck, I slept one night in her cabin and one night in mine.

Did you sleep in any other place except those two you have mentioned? No.

And the harper slept at a different part of the ship, did he? I do not know where he slept, but I believe he slept where I told you, near our dining table.

Did you not say, a short time ago, that that was in a different part of the ship? I said it was at the extremity, at the end of the vessel in a cabin which was below, not on the deck: I do not mean the end of the vessel which was above, but below.

Do you mean to swear, that the Jew harper slept there every night on that voyage from Tunis until you landed? I do not know where he slept every night.

Will you swear, that you do not know where he slept any one night? I recollect having heard that he slept there, but I never saw him; I do not remember precisely.

Then you do not know, do you, where he slept any one night, of your own knowledge? No, I said that I did not know myself where he slept, but that I was told.

Nor any part of any night, of your own knowledge? Not by my own knowledge.

You are understood to have mentioned a place of the name of Scharnitz? Scharnitz, yes.

From that place, if you are understood rightly, you have said that Pergami went to get a passport; is not that so? I recollect that Pergami departed from that place, and I was told it was to go to Inspruck for a passport.

Was that the Winter season? As far as I recollect, it was in the Spring, about the month of March.

Was there frost or snow upon the ground? There was a great deal of snow.

It was a poor inn, an indifferent inn, was it not? A small inn.

You are understood to say, that you were upon a bed in the room of the princess, was that so? Yes.

Had you taken off your clothes? Not entirely.

Had you taken off more than your gown? I do not perfectly recollect, but I believe not.

Had the princess undressed? I do not recollect, she was in bed, but I do not recollect whether she was undressed.

Do you remember the dress that the princess was in the habit of wearing at that time? Yes.

Was it not a blue habit, trimmed with fur round close up to the neck, with a great deal of fur about it? Yes, there was a great deal of fur here [about the bosom]; it was a blue dress.

Had not the princess at the same time a cap? When she was travelling she had a cap.

A travelling cap? Yes.

Had not the princess gone upon the bed, or into the bed, with that dress upon her, in the middle of the preceding day? Yes.

Do you mean to say, that from the middle of the day, when she got into the bed or on the bed, she had undressed herself at all? I saw her royal highness on the bed during the day in that same riding habit.

Did you see her royal highness take it off at all, whilst she remained at that inn? I do not recollect seeing it.

You yourself were upon a bed in the same room with her? Yes.

You left that small inn, as you describe, early in the morning, did you not? Yes.

You are understood to have said, that you entered into the service of the princess in the near 1814? Yes.

And remained in it until the year 1817? Yes.

Until the month of November, or thereabouts, in that year, did you not? Yes.

Did you quit the princess's service of your own accord, or were you discharged? I was discharged

Were you not discharged for saying something which you afterwards admitted to be false? Yes, in fact it was not true.

Did you go into any other service after you were discharged from the princess's before you came to England? No.

Did not your money fail you before you came to England? No.

You mean to say, that you were not short of money before you came to England, do you? No, because I had money in Switzerland, and I might have got it if I had been in want of it, if I had been willing.

Did you never say that you were getting short of money? I do not remember ever saying it; I have funds in Switzerland, and I live upon the interest of them.

Did you never represent that you had failed to save money in the service of the princess? I do not remember ever saying so.

Will you swear that you never represented that to any body? I cannot swear it, but I do not recollect ever saying it.

Or representing it? I do not recollect it.

Will you swear that you have not? I will not swear it, but I do not recollect it.

You were applied to by some person or other, very soon after you were discharged from the princess, were you not? Not very soon after.

For example, within half a year? Not six months, it was more than six months, it was nearly one year after I had left her service.

You are understood to say, you were applied to, to know what you had to say with respect to the princess, is not that so? One year after I had left her service.

Did or did not somebody apply to you, in order to know what you had to say with respect to the princess, about a year after you left the service of her royal highness, or at whatever period? One year after.

Yes or no? Yes, one year after.

Do you mean to represent, that an application was not made to you much earlier than a year after your being discharged from the princess? [The witness answered, without the question being interpreted to her.] No.

Is it or is it not true, that an application was made to you within half a year of your quitting the service of the princess? No application was made to me earlier than one year after I had quitted her.

Will you swear that? Yes.

Neither by means of a letter, nor by personal application, or otherwise in any manner? No; as I know what it is about, may I be allowed to explain the matter?

Through Mr. *Garston.*—About six months after I left the service of her royal highness, I wrote to my sister to say, that an application had been made to me, but that it was a double entendre between me and my sister; that is all I have to say.

Mr. *Brougham* desired that the examination might proceed through the interpretation of Mr Garston.

Mr. Pinario was directed to attend to the examination, and to interpose in case of any

thing appearing to him to be incorrect. The examination proceeded through Mr. Garston.

Have you never said, that the princess was surrounded with spies when in Italy? I do not recollect ever having said it.

Or represented it in any manner? I do not recollect it.

Will you swear that you have not? I will not swear but I do not recollect it.

Have you a short memory, a treacherous memory? Not very short, but it is so long since the thing passed, that I cannot recollect it.

Is it longer than the voyage, and the other travels you have been speaking to? The same thing; I cannot recollect, what I have said in a conversation, it is impossible; things to which one does not pay attention.

Either by a conversation, or in any other manner, have you represented it? I recollect nothing at all about it.

Will you swear you have not? I will not swear, but I recollect nothing of it.

Do you know baron Ompteda? Yes, I have known him.

You have seen him? I have seen him.

Spoken with him? Not often.

You have spoken with him? Once at the Villa Villani.

When he was upon a visit with the princess? He was at the Villa Villani; I believe he was paying a visit to the princess.

Was he often there? I recollect only having seen him this once during some days.

What do you mean by some days? He remained some days in the house.

Has he been upon a visit to the princess while you were in her service, more than once? Yes.

How many times have you known him upon a visit to the princess, whilst you were in the service of the princess? I have seen him at three different places.

Upon one occasion you say his visit was of three or four days, were the other visits of as long duration? I think not.

A day or two perhaps? I only remember to have seen him that once for some days at the residence of the princess.

Then were the visits on the other two occasions of a day or two? They were of a shorter duration, as far as I recollect.

You do not recollect precisely how long it was upon the other two occasions? I think he came only to dine; I cannot precisely say, I have seen him only in the house.

On which occasion was it, that a complaint was made by the princess of his conduct at her house?

The counsel were informed, that the question should first be asked, whether there was a complaint made.

Was there a complaint made by the princess of the conduct of the baron upon one of those occasions? Yes.

On which of the occasions was it? As far as I can recollect, it was at the Villa Villani.

Was the complaint about locks or false keys?

The counsel were informed, that the first question should be, "what was it about?" and that if that did not sufficiently bring out the fact, a further question might be put.

Was there any complaint about keys or locks made by the princess? I recollect that the princess made complaints, but I do not recollect respecting what.

Only respecting the conduct of baron Ompteda while he was residing in her house? I do not recollect whether it was whilst he resided there or afterwards.

Did not the complaint respecting the conduct of baron Ompteda respect him, Ompteda, while he was in the house of the princess? I do not recollect what was the subject of the complaint.

You yourself took a considerable share in the business of the complaint, did you not? None.

Did not you write a challenge; did you not copy one?

Mr. Solicitor General objected to the question.

Did you, or did you not, write a letter for Mr. Hownam? I do not recollect if I wrote a letter for Mr. Hownam.

Did he not desire you to write a letter for him to baron Ompteda? I recollect nothing of it, or nothing about it.

Is that your writing? [a letter being shown to the witness, folded so that she might see the last line and a half.] It is not exactly like my writing.

Do you believe it to be your writing or not? It is not exactly like my hand-writing.

Do you believe it to be your hand-writing? I do not recollect having written it, nor do I think that it is exactly like my character.

Do you believe it to be your writing, aye or no? I do not think it is exactly my hand-writing; I do not recollect having written it.

Do you believe it to be your hand-writing, aye or no? I cannot decide whether it is my hand-writing; it is not quite like it, and I do not recollect having written it.

Do you believe it aye or no? I cannot say yes or no; because it is not exactly like my hand-writing, and I do not recollect having written it.

Do you believe it to be your writing? It is not exactly like my hand-writing.

Do you believe it to be your writing? I cannot tell what else to answer; I cannot answer to a thing of which I am not sure.

Lord *Erskine*.—You are not asked whether you know it to be yours, but whether you believe it to be yours? I cannot say positively that it is not my hand-writing, but I do not believe it is.

Mr. *Williams*.—How much of that paper that has been before you so long, was submitted to your eye during the time you have

given the answers you have given? A line and a half.

Before it was folded down, as it now is, did you not see higher up in the paper several lines more than that line and a half? When they presented it me, there I saw something more, but I do not recollect how many lines, nor what it was.

Do you mean to say, that when the counsel showed you the paper, before it was in the hands of the interpreter, it was not near enough for you to see the writing? I do not know whether it was near enough; I have seen the writing, but not distinguished what the writing was.

Was it not, when in the hand of the counsel, near enough for you to see the writing, and the character of the writing? I have merely half seen the character.

Was it not near enough to you for you to see it? It was near enough, because I have seen it; but I have only partly seen it; confusedly I have seen the hand-writing at a distance but have not been able to distinguish.

Why did you not complain, when the counsel held it in his hand, that it was not near enough for you to see it? Because the counsel gave it to you. [Addressing herself to the interpreter.]

Do you mean to represent that the counsel did not hold it before you long enough for you to see the character before he handed it to the interpreter? I could not see the character distinctly at that distance.

Mr. *Williams*.—Do you now see the line and a half that is before you? Yes.

[The paper was then presented to the witness folded lengthways, so as to show the first half of every line.]

Do you see that distinctly? Yes.

Is that your hand-writing? It does not seem exactly my writing.

Do you believe it, or not? I cannot tell whether it is my writing, because it is not exactly as I write.

[The paper was marked by the clerk assistant.]

The counsel were directed to withdraw.

The Earl of *Donoughmore* observed, that a part only of this paper was shown to the witness, and therefore she had not an opportunity of stating whether the whole of it was her writing or not. How, then, could they know, by marking the entire paper, which was the particular portion that she had referred to? She was called on to say, "Do you believe this to be your hand-writing, or do you not?" He contended that there was a third mode of answering. She might be asked, "Do you believe this to be your hand-writing, yes or no?" But was she not entitled to give a third answer—namely, "I can form no belief on the subject?"

The *Lord Chancellor* said, with respect to marking the paper, the regular course would be, that the clerk should, by some mark of his own, enable himself to identify it generally; and where particular parts had been pointed out to the witness, that line, or line and a half should be distinguished by his initials, that, if the papers were hereafter produced in evidence, they might be properly authenticated.

Earl *Grey* did not think it was necessary to mark the paper in this manner, since it was stated, on their lordships' minutes, that the letter exhibited to the witness was doubled down lengthwise, so as to show the first half of every line.

The *Lord Chancellor* said he had overlooked that circumstance.

The counsel were again called in.

Mr. *Williams*.—Was it not in the month of November 1817, that you quitted the service of the princess? Yes.

Of course, at that time you knew all respecting the princess that you have been deposing to before their lordships for two days back? Yes.

Since the time that you quitted the service, or were discharged from the service of the princess, have you never represented the character of the princess to be of a very high description, of an excellent description? I do not recollect.

Will you swear you have never represented, that you would surrender half your life if she could but read your heart? I may have said that, but I do not recollect it.

Do you remember never having said, or written, or represented, that if the princess could read your heart, she would then be convinced of the infinite respect, the unlimited attachment, and the perfect affection, you entertained for her august person? I recollect to have written several times to my sister but I do not recollect the contents of my letter.

Will you swear that you did not write to your sister to that effect after you were discharged? I have written to my sister.

Will you swear that you did not write to the effect that has just been stated to you? I wrote home in my journey to count Schiavini.

The question refers to your writing to your sister? I wrote several times to my sister.

Will you swear that you did not express yourself in the manner or to the effect described in a letter to your sister since you were discharged? I have written several times to my sister, and I know I have spoken of her royal highness; but I do not recollect the expressions I have used.

You are asked to the effect? Am I asked if I have written in the same sense, if I have said those words.

To the same effect in any words? If I have written expressly for that.

Have you expressed yourself in these words, or to the sense, "if the princess could but read

my heart she would then be convinced of the infinite respect, the unlimited attachment, and the perfect affection I have always entertained for her august person!" I have written to my sister, but I cannot exactly recall the expressions; it was in that sense, in that meaning.

Will you swear you did not use those very expressions, beginning with the words, "Oh! God, I would surrender half my life if she could read my heart?" I may have used these expressions, because at that time I was much attached to her royal highness.

That was some time after you had been discharged, was it not? It was not very long after.

Have you not to the same sister written, "How often in a numerous circle have I with enthusiasm enumerated her great qualities, her rare talents, her mildness, her patience, her charity, in short, all the perfections which she possesses in so eminent a degree?" I do not recollect whether I have made use of those expressions, but I have written to my sister, and I have spoken of the manner in which she conducted herself towards me.

Have you not used the very expressions that have been just put to you? I do not recollect exactly whether I have used the same expressions, but I have written in the same sense; I do not recollect the expressions.

Then you will not swear that you have not used those very expressions? I will not swear that I have made use of them, nor that I have not made use of them.

But to the same sense you admit? The sense, yes.

Do you not remember this, "how often have I seen my hearers affected, and heard them exclaim, that the world is unjust, to cause so much unhappiness, to one who deserves it so little?" I do not recollect whether I used those expressions.

"And who is so worthy of being happy?" I do not remember the expressions.

Have you not written to that effect? I have written to my sister several times to that effect, in that sense.

Will you swear that you have not used those very expressions, those very words? I cannot recollect whether I have made use of them exactly.

You will not swear that you have not? I will not swear that I have made use of them, nor that I have not made use of them.

You kept a journal, did you not? A journal of a voyage.

A journal generally, whilst you were with the princess? Yes.

Do you remember writing to your sister thus: "you cannot think what a noise my little journal has made?" I wrote several times to my sister, but I cannot recollect exactly what I wrote.

Did you not on one occasion use the words just repeated, or to that effect? I cannot recollect it.

Will you swear you have not? I will not swear that.

"It has been" (speaking of the journal), "if I may use the expression snatched at" (arraché)? I tell you I cannot recollect what I have written to my sister, exactly the expressions.

"Every one has read it; madame Gaulisa begged me to let her carry it to Lausanne; all the English who were there wanted to see it immediately;" do you remember using those expressions to your sister? I tell you it is impossible I should recollect what I have written to my sister; I do not recollect the expressions.

Do you not remember writing to that effect? I do not recollect what I have written to my sister.

Will you swear you have not, to the effect just repeated to you about the journal? I cannot swear to that of which I am not perfectly sure.

Who is madame Gaulisa? A Swiss lady.

Whom you know? Yes, I know her.

Did you not shew the journal to madame Gaulisa? I do not recollect whether madame Gaulisa read it before or after I was returned.

Did she not see it? She has seen it, but I do not recollect whether it was before or after I returned.

Do you not remember writing to this effect or these words: "I have been delighted at it," at her seeing the journal, "for you know I say in it a great deal of the best and most amiable princess in the world; I relate, in detail, all the traits of sensibility and of generosity which she has shewn, the manner in which she has been received, applauded, cherished, in all the places we have visited?" I recollect that I wrote very often to my sister, and spoke of her royal highness.

And to this effect? I do not recollect whether it was in that sense which has been last spoken of.

Will you swear you did not? I will not swear that I have not done it, because I do not recollect it.

"You know that when the princess is my subject I am not barren; consequently my journal is embellished with the effusion of my heart, my greatest desire having always been, that the princess should appear to be what she really is, and that full justice should be rendered to her." Do you remember having written to that effect? It is always the same thing; I have written frequently to my sister, and as I was much attached to the princess at that time, I wrote a great deal about her; but I do not recollect the expressions of which I made use.

Will you swear you did not use the expressions which have just been put to you? I will not swear, because I am not sure of it.

Will you swear that you did not use them? I will not swear, because I am not sure of it.

Have you any doubt that you did use them?

I do not recollect whether I have made use of them? I wrote frequently to my sister, and I do not recollect the expressions.

Have you not represented, that your money began to fall short? I know nothing of that, but I have never been in want of money.

Have you not stated to your sister, that you were beginning to be short of money, that you were getting poor? I do not know whether I have said it, but that has never happened to me.

Have you never represented to your sister, that she should economise as much as possible? Yes.

And retrench every superfluity? I have represented to her, that she ought to economise, because she has no fortune at home.

Have you not represented, "Did you but know the pain I feel in not having done so?" I do not recollect whether I wrote that, but I never have had need of money.

Have you not added, "I do not think I ever was guilty of extravagance, but I have not deprived myself of many things, which were almost useless?" How do you wish me to recollect what I have written?" (Comment voulez-vous que je me rappelle ce que j'ai écrit?")

When you have spoken to the house of something which you call a double entendre, was not the effect of that to this effect, "I had almost forgotten to confide to you a thing which will surprise you as much as it has done me. Upon the 24th of last month I was taking some refreshment at my aunt Clara's, when I was informed an unknown person desired to deliver me a letter, and that he would trust it to know one else. I went down stairs, and desired him to come up into my room. Judge of my astonishment when I broke the seal! A proposal was made to me to set off for London, under the pretence of being a governess: I was promised high protection, and a brilliant fortune in a short time. The letter was without signature; but to assure me of the truth of it, I was informed I might draw on a banker for as much money as I wished."

The *Attorney General* stated, that he had not interposed when the counsel against the bill had asked as to particular expressions used by the witness, but that now that he was proceeding to read a long letter, he felt it necessary to submit, that the regular course was for him to produce it, and put it into the hand of the witness, and to ask whether it is her hand-writing or not; and that he had no right, without having so done, to read the contents of a letter, which was assumed to exist.

Mr. *Williams* submitted, that he had been perfectly in order. In cross-examinations there were two modes which an advocate had a right to take, with a view to try the veracity of a witness. First, as in the case before their lordships, in parole evidence, supposing the witness to have made any particular statement, at any particular time or to any given number of persons, which was untrue, it was competent to give in evidence not one word in contradiction, unless the witness had been previously asked as to that statement, or generally examined upon that subject. Not till the witness should be so examined, and the answer, whatever it might be, was obtained, was it competent for the cross-examining advocate to call one of the numerous persons assumed to be in a condition to contradict the witness. The analogy with this case was close and obvious. Of course, this alternative resulted from the examination, an examination of great importance in eliciting truth; either he must contradict the witness immediately, or he can put himself in a condition to contradict the witness at a future period. Either the witness admitted what was contrary to the evidence given, and thus gave a self-contradiction, or the witness denied it, and then the party to be affected was in the predicament of setting himself right and the witness wrong. To assimilate the case to the present, where the writing of a letter was the question, the rule of evidence was the same as he had stated respecting parole evidence. In the same way as in parole evidence the witness was asked, whether he had said this or that, so had he a right here to ask the witness whether she had written this or that. He had the chance of a denial of having so written, that he might not only have the contradiction to the evidence which the writing contained, but also the advantage of the contradiction to the denial of having so written, which went further to destroy the general credit of the witness, as well as the truth of the particular evidence given by that witness. In matter of evidence he would not quote *nisi prius* cases to their lordships, but that the oblique and collateral memoirs of counsel could not be relied on with confidence, as they exercised their memory only for a party, and one recollected one thing, and another another thing more strongly, remembering best that which suited best the purpose of each. Although he was ashamed to quote cases to their lordships and the learned judges, deeming it unfair, as he did, where there was no opportunity of consulting and deliberating upon the various bearings, yet he was compelled, if he would not rely

upon memory, which was so fallacious, to refer their lordships to a case at *nisi prius*, before a judge whose distinguished character could not be raised by any praises of his, and who, though not known to him, must have been well known to many of their lordships. Lord Kenyon, in 1802, presided in the case of Sackville *v.* Bow, which was a question whether goods taken in execution were the property of the plaintiff or another person. A witness for the plaintiff was cross-examined as to a contradiction to his testimony contained in an affidavit. Lord Kenyon, whose knowledge of the laws of evidence was not less eminent than the other great qualifications of his lordship, said, if the affidavit was not in court, the witnesses could not be examined respecting it. This was quite clear and quite well understood in point of practice. But with the affidavit in court, it was competent to have put all the questions proposed to the witness with the view of contradicting him. If the affidavit was not there, it would have been a mere waste of time to examine as to it, because no contradiction could be given in any authentic shape. This, then, was a case quite in favour of the right which he claimed to cross-examine this witness, as to the writing of letters which were in court. The learned judge assumed that, if the affidavit was in court, it would be quite regular to examine upon it. But that, he contended, was, in fact, a decision in his favour. Their lordships would permit him to mention also, that at the last assizes for the county of York there was a case tried before Mr. Justice Bayley, in which his learned friend was against, and Mr. Scarlett with him. There it was allowed to counsel to read from a letter its contents, in order to contradict the evidence of a witness, without its being required to put the letter into that witness's hands. Mr. Brougham was permitted to cross-examine upon that letter, and did so; and the effect of this was, that the witness was contradicted to the whole extent of that part of his testimony to which the letter was applicable; to the whole extent to which he was allowed to cross-examine him on it, and until he was able to contradict and refute his evidence. To this rule, however, the attorney-general had made an objection: and he would not say that it was a captious objection on his part; for no doubt he knew its consequence; he felt that he was fighting *pro aris et focis*; and here was an important objection going to the very bottom of the case. But now that he (Mr. Williams) spoke of authorities, he must be permitted to inform his learned friends, that he had even their's, which was not a mean one, and to the same effect. He had the authority of his majesty's attorney and solicitor general themselves; wherefore he thought such an objection as they had made, came now, a little too late. Of the two cases he had mentioned to their lordships, one was a case at *nisi prius*, and one he cited from memory. But here had been the attorney and solicitor general looking on, for two hours, by the clock, while he (Mr. Williams) had been examining the witness from a written paper, without making any objection. Surely this implied the sanction of their authority too; and the objection made came from them a little too late.

Mr. *Brougham* only begged to state, from his own recollection, that in the case to which Mr. Williams had referred, the rule was decided to be that which his learned friend had stated by Mr. Justice Bayley. He (Mr. Brougham) was putting a writing into the hands of the witness, and asking him to deny or to acknowledge his own hand-writing—nothing more. He proved it, and then Mr. Scarlett objected to his examining to the contents or the writing of that letter, upon which Mr. Justice Bayley held that he had a right to examine the witness from such letter, holding it in his hand, without showing it to that witness. The learned judge so ruled, for this obvious reason—that if he (Mr. Brougham) did show it to the other, there must be an end, at once, of all possibility of his trying the witness's credit.

The *Attorney General* would dismiss the two cases which had been cited with this observation—that counsel who quoted cases from memory always did so according to their own impressions of the law upon the subject: those in question had been cited by his learned friends in their own favour. He should not remark upon the declaration which had been used by his learned friend, Mr. Williams. "It is mine and your lordships' duty" (continued the learned gentleman) "to look upon this question according to those rules by which your lordships will conceive yourselves to be bound;" he meant the rules of evidence applying to other courts of justice. Whether the question was one that was material or immaterial, if he felt

that his learned friends were trenching at all, or going beyond that which was legal and right, it was his duty directly to object to the course they were taking. One of the propositions which had been advanced he should dispute; and that was, as to the means to be used in order to procure the contradiction of any fact or expression previously deposed to by a witness. In the first place, the position which had been contended for applied only to parole evidence: here, their lordships would observe, they were not upon parole evidence, but on a long letter. His learned friend said—and he must believe him, of course, though the fact rested upon his own statement only—that he had that letter in his possession. Now his objection was this—not that they might put that letter into the witness's hands, and ask her if it was her hand-writing; and then, if she denied it, prove it was, (which they might undoubtedly do); or in case she admitted it, and that it contained a contradiction to what she had said, that then the letter might be used in evidence (which they would be equally competent to do). But he contended that they could not examine the witness upon any of the contents of a letter which was not produced in evidence, nor put into the hands of the witness, in order to prove the writing. The decision of lord Kenyon, at *nisi prius*, proceeded upon the same principle. His learned friends had not pursued the regular course; they did not put the letter into the hands of the witness, and ask her if it was her hand-writing, which unquestionably it would have been competent for them to do; they might prove that a statement in the letter was in contradiction to a statement made at their lordships' bar; but that part of the letter alone would be evidence. He meant to contend, that they could not bring a written document of this nature in evidence, unless under the particular circumstances which he had stated. They had a right to ascertain if the letter was written by the witness or not; and, if they could ascertain that fact, then they would have a right to use the letter. The document must speak for itself, it being in [illegible]. So far from his learned friends having established, therefore, that he (the attorney-general) was wrong, he submitted to their lordships that his learned friends were in that case, and that he was right. If he had suffered those learned gentlemen to proceed so long in an irregular course, that ought not to be allowed to operate against him. What he ventured to stand upon was this—that the course pursued by Mr. Williams was an irregular one. The proper way would be to put the letter into the witness's hands. If she admitted it to be of her writing, it might then be a question what part of it should be taken as evidence or not. His learned friends had no right to cross-examine the witness, assuming the admission of that letter, and upon the facts which it contained. As to what had been said about an affidavit and a letter, he accepted the challenge of his learned friend; and would maintain that there was no difference, so far as regarded the legal rule for which he was contending, between a letter and an affidavit: whether it was an affidavit or any other writing, in every case that written instrument must be proved.

Lord *Erskine* said, it appeared to him that the more preferable course would be for the queen's counsel to go directly to work. They should produce the letter—they should ask the witness whether or no it was her hand-writing; and then if she doubted or denied it, that would be no matter, because others need not doubt about it. It would be easy to examine others as to her hand-writing; and then it would be seen how far that which was written in the letter might be in contradiction, or otherwise, to what she had deposed at the bar. There might be, as he apprehended, danger in the other course. Counsel might hold the letter in their hands, and say to witness, "Did you not write this, or something like this?" and she might reply, "I wrote to this or that effect;" so that there would be nothing like a definite answer, and infinite time would be consumed. Therefore such a course, instead of arriving at the desired object by a direct and speedy method, would be as circuitous as for himself to go round by Hampstead and Highgate to his own house.

The *Lord Chancellor* said, that whatever his own opinion might be upon this question, it was one which he thought it would be most advisable to refer to the learned judges. They might be asked, what would be the rule of evidence, in the courts below, applicable to a case similar to the present. He by no means concurred in the view which had been taken of it by the noble lord who had just spoken. When he (the lord chancellor) had the honour of attending courts of law, he al-

ways understood the rule to stand thus:—if a witness was called to the bar, and it was intended to shake the credit of that witness, counsel might proceed (as it was quite competent for them to do) to prove that he or she had made a declaration of another sort, *vivâ voce*, or by writing, (if he or she ever had addressed to another person such and such a declaration), from that which was then recently made at the bar. If the witness had done so, and that was made to appear, it went directly to destroy the credibility of such witness upon his examination in chief. If the witness, however, in such a case, denied that he or she ever did make such a declaration (whether by letter or otherwise), it was equally competent for the other party to prove that, notwithstanding that denial, the witness had made such contradictory statement or declaration: that it was in contradiction to what the witness had already affirmed. A question of this kind, he remembered, arose upon the Berkeley peerage; although there it was endeavoured, not to impugn, but to confirm a witness's testimony. Their lordships must see that in their case the rule of parole evidence must apply where the declaration was a verbal one. It was long since he had ceased to mingle in the business of common-law courts; but twenty years ago the rule of evidence in a case like the present was quite clear: they showed the letter to the witness, and asked him "Did he write or subscribe it, yes or no?" If the witness denied that such letter had been so written or subscribed by him, and another person attempted to prove, and did prove, to the satisfaction of the court, that it was written or subscribed by the witness, then that denial destroyed altogether the credit of his examination. But their lordships would easily see (unless they introduced a great deal more limitation than had been attempted to be done) what a state they would be in. Because, if counsel proceeded in this way, they might go back to any distance of time, and ask witnesses if such or such a letter had been written by them; and if the witness was erroneous in her answer, owing to the lapse of time, very serious consequences might arise from her error. He should propose that the following Question be referred to the learned Judges: "Whether, in the courts below, a party on cross-examination would be allowed to represent, in the statement of a question, the contents of a letter, and to ask the witness whether she had written a letter with those contents, or contents to the like effect, without having first shown to the witness the letter, and having asked her whether she wrote that letter, or put a signature thereto?"

The Earl of *Donoughmore* thought, that there could be no doubt, if the witness had confessed this paper to be her handwriting, that the cross-examination upon the strength of it was quite regular. But his doubt upon the subject was this—that it should have been proved. Counsel were making the same use of this unauthenticated paper as if it had been already regularly proved. If the witness had declared it was her hand-writing, then they might have been allowed to use it for the purposes of cross-examination; but he doubted, under present circumstances, whether they had a right to make any use of it whatever. What, he would ask, had the whole of the cross-examination tended to? To discredit the witness, if he might use the term, by anticipation. Having shown her that letter, it should be proved; but that could not be done at the present moment, because they could not interrupt her testimony. The witness then, as far as these letters went, must leave the bar, an uncontradicted witness: and the fact being so, she ought to have the benefit of it. Instead of this, here had been a cross-examination of nearly two hours, and he protested against a proceeding like that upon which their lordships were called upon to interfere being allowed to produce any discredit of the witness in this stage. A very extraordinary objection had been made to the attorney-general, that because he did not interfere before, as he might have done, he ought not to interfere now; so that, because that which was irregular had been allowed to go on for an hour or two, it ought to be permitted to continue.

The Earl of *Lauderdale* had a doubt whether their lordships could put the proposed question: supposing the signature or subscription were shown and proved, *non constat* that that which preceded the signature might not have been subsequently altered.

The Earl of *Liverpool* thought, that another question had arisen in the course of the examination. The question was, whether parties were entitled to examine upon certain expressions? But previously to the ascertaining of this, there was

another question to be considered, upon which, he confessed, he had a doubt, and should like to hear the opinion of others. It was, whether, when a letter was proved, counsel had a right to read, for instance, a line or two, and to ask a witness a question upon those two lines? This was a point of law, and of course he felt a difficulty upon the subject. For his own part, so far as the reason of the thing was concerned, he should think that in all cases, if any letter were produced in court, the witness had a right to see the whole of it, and then to say whether or no it had been written by him. He could imagine, that under very many, and indeed under all circumstances, the reading of a part, or the exhibition of a part, only, must tend to the deception of a witness.

Lord *Redesdale* thought, that if the witness admitted the letter to be her hand-writing, the examination might be proceeded in. If not, he thought it ought not to be allowed.

Lord *Erskine* was of opinion, that they might show the witness a small part of the letter, in order to give her an opportunity of ascertaining whether it was of her writing or not.

The following Questions were then put to the learned Judges:

"Whether, in the courts below, a party on "cross-examination would be allowed to re- "present, in the statement of a question, the "contents of a letter, and to ask the witness "whether the witness wrote a letter to any "person with such contents, or contents to the "like effect, without having first shewn to "the witness the letter, and having asked that "witness whether the witness wrote that let- "ter, and his admitting that he wrote such, "letter?

"Secondly, whether when a letter is pro- "duced in the courts below, the court would "allow a witness to be asked, upon shewing "the witness only a part of, or one or more "lines of such letter, and not the whole of it "whether he wrote such part, or such one or "more lines; and in case the witness shall "not admit that he did or did not write the "same, the witness can be examined to the "contents of such letter."

The questions being handed to the lord chief justice, the learned Judges begged leave to retire. After a short time the learned Judges returned.

Lord Chief Justice Abbott.—My lords; the Judges have conferred upon the questions propounded to them by your lordships: the first question was in these words, "Whether, in "the courts below, a party on cross-examina- "tion would be allowed to represent, in the "statement of a question, the contents of a "letter, and to ask the witness whether he "wrote such a letter to any person with such "contents, or contents to the like effect, with- "out having first shewn to the witness, the let- "ter, and asked the witness whether he wrote "the letter, and his admitting that he wrote "that letter?"

The judges are of opinion that that question must be answered by them in the negative; and the reason and foundation of our opinion is shortly this—the contents of every written paper are, according to the ordinary and well-established rules of evidence, to be proved by the paper itself, and by that alone, if the paper be in existence; the proper course therefore, my lords, is, to ask the witness whether or no that letter is of the hand-writing of the witness; if the witness admits it is of his or her hand-writing, the cross-examining counsel may, at his proper season, read that letter as evidence; and when the letter is produced, then, my lords, the whole of the letter is made evidence. One of the reasons for the rule requiring the production of written instruments, is in order that the court may be possessed of the whole. If the course which is here proposed should be followed, the cross-examining counsel may put the court in possession only of a part of the contents of the written paper, and thus the court may never be in possession of the whole, though it may happen that the whole, if produced, may have an effect very different from that which might be produced by a statement of a part.

My lords, the next question proposed by your lordships, is, "Whether when a letter is "produced in the courts below, the court "would allow a witness to be asked, shewing "the witness only a part, or one or more lines "of such letter, and not the whole of it, whe- "ther he wrote such part or such one or more "lines; and if he should not admit that he "did or did not write such part, whether he "can be examined to the contents of such "letter." The Judges beg your lordships permission to divide this question into two parts: in answer to the first part, namely, "Whether when a letter is produced in the courts below, the court would allow a witness to be asked, shewing the witness only a part, or one or more lines of such letter, and not the whole of it, whether he wrote such part?" the Judges are of opinion, that that question should be answered by them in the affirmative to the question in that form; but in answer to the latter part, which is this, "and in case the witness shall not admit that he did or did not write such part, whether he can be examined to the contents of such letter?" that the learned Judges answer in the negative, for the reason I have already given; namely, that the paper itself is to be produced, in order that the whole may be seen, and the one part explained by the other.

The Earl of *Liverpool*, after a consi-

derable pause, observed, that the question of striking out the latter part of the evidence from their minutes, was one of importance, on which he at present delivered no opinion, but which deserved their lordships' consideration.

Mr. *Brougham* expressed a hope that their lordships would hear him before they came to any resolution upon this subject.

The Earl of *Donoughmore* conceived the subject to be of so much importance, that he should be guilty of a dereliction of his duty, if he did not fairly state his own impressions respecting it. He should be glad also to hear the opinions of other noble lords, although he himself saw but one way of getting out of their difficulty. The opinion of the judges went to affect the whole of that day's proceeding, and if they were not to persevere in an irregular course, neither ought what had been irregular to remain upon their Journals. He thought, too, that it would be unjust to allow the evidence upon an examination which had been erroneously pursued, to go forth to the public. This might serve the purposes of the defence, by casting general discredit as soon as possible on a witness's testimony, but it was for their lordships to prevent any improper influence over the administration of justice. He should therefore in the mean time move, that after communication was made to counsel of the opinion delivered by the judges, they should also be informed that the whole evidence with regard to the letters would be expunged from the minutes of the House.

The Earl of *Lauderdale* observed, that they could not strike all this evidence out of their minutes without in the first place hearing counsel against it.

Lord *Erskine* stated, that the examination had not been objected to till it had proceeded a very considerable length. If the whole evidence taken under it were struck out, their lordships must, in consistency, go back, and strike out many other pieces of evidence. They were probably not aware how far this would carry them, or that it might lead to the necessity of revising the whole of their minutes, and to infinite debate upon what parts ought or ought not to be expunged. In any case, however, the counsel ought to be heard if their lordships entertained the present question.

The Marquis of *Lansdown* observed, that he understood the usual practice to be, when counsel on one side were induced to forbear stating their objection in due time, and delayed it till the examination which it applied to was nearly brought to a close, it should not impose on the opposite counsel the necessity of re-commencing his whole examination. No counsel in the world could begin at once with the material questions of his cross-examination, if by some after-objection it was probable that he must begin *de novo*, because then the witness would be placed on his guard and see plainly before him the object and course of the questions addressed to him. The error lay with those counsel who omitted to bring forward a sound objection at the proper time, and it appeared to him of great consequence to the administration of justice that this principle should be well understood.

The *Lord Chancellor* said, that if the question of striking out this evidence from their minutes was to be debated, it ought to be debated with a full statement before them of the whole matter, and in that case it would be proper to adjourn till the next day. It certainly appeared to him to be a most important and serious question.

Lord *Grenville* was of opinion that they ought not to proceed upon the motion till some application was made on the part of counsel for that purpose, nor until after it was shown, question by question, and article by article, to what parts the objection was applied.

The Earl of *Donoughmore* observed, that he was not responsible for the order of their lordships' proceedings; he was but a simple peer amongst many. He objected to an examination appearing and going forth which the judges had pronounced to be irregular. That opinion of the judges ought, in his view, to be construed as looking backward as well as forward, and as affecting the whole of that day's examination. If, however, this was contrary to the general impression of their lordships, he was willing to withdraw his motion.

The Counsel were again called in, and informed, that upon cross-examination, counsel cannot be allowed to represent, in the statement of a question, the contents of a letter, and to ask the witness whether the witness wrote a letter to any person with such contents, or contents to the like effect, unless the letter is first shewn to the witness, and the witness is asked whether he wrote such letter,

and admits that he did write it; and also, that the House will allow a witness to be asked upon cross-examination, upon shewing such witness only a part, or one or more lines of such letter, and not the whole of it, whether he wrote such part, or such one or more lines: but if the witness should not admit that he wrote such part or such one or more lines, the witness cannot be examined to the effect of the contents of the letter, unless it is shewn to him, and he admits that he wrote it.

The Witness was again called in.

Mr. *Williams*.—Is that your hand-writing? (a letter being put into the hand of the witness.) Yes.

Is that side your writing? It is my writing.

Take the next—Is the next page your writing? Yes.

And the next? Yes.

Even to the end? Yes, to the end.

And the address? Yes.

And the date and the place? Yes.

Look at that. [Another letter being shown to the witness.[Is that first page your writing? Yes.

And the next? Yes.

And the last? Yes.

The whole? To the end.

Is the first page of that letter your writing, the date and altogether? [Another letter being shewn to the witness.] Yes.

And the next page? Yes.

Name and all? Yes, all mine.

The Letters were severally handed in, and marked by the clerk assistant.

Mr. Attorney General objected to any question being put as to the contents of the letters, and submitted that the written instruments must be produced, and must speak for themselves.

Mr. *Williams* remarked, that the attorney-general's objection was certainly a short one, but if he understood it rightly, a more important question, as affecting the administration of justice, never yet arose from the beginning of the law to this time. No man was more disposed than himself to bow with humility to great legal authorities, but in that high court, and in a cause of such high importance, he should be ashamed of himself, if he did not fairly, candidly, and manfully, state his own opinion to their lordships. The rule in question was one of practice rather than of written authority; if there had been any authority in the books respecting it, that authority should have been produced. But in the absence of all recorded reference or citation on the subject, he should assume that none was to be found. If the rule were as the attorney-general represented it, what must be its immediate and necessary consequence? The only principle on which the letter was at all admitted was, that it might show a contradiction to the evidence on the examination in chief. This was the foundation of its admissibility. It was in this light only that letters or old affidavits, not appertaining to the cause in hand, could be made matter of evidence. The course which he now proposed to pursue with the witness was according to the established practice as he understood it, as he had observed it, as he had suffered from it. The writing was introduced for the sole purpose of pointing out a contradiction. Why were they to wait till a future stage of this proceeding for the discovery of facts which might be proved immediately? What was the ground or necessity for this delay? If restrained in his present course, he might experience difficulties hereafter in showing the contradiction. The question was of obvious and vital importance. There was a case fresh in his recollection, a case in which he was himself engaged, and tried before a judge, who, without speaking invidiously, he would say was exceeded by none in legal knowledge (he meant Mr. Baron Wood), the last time he went the Northern circuit. He, as counsel for one of the parties, had a letter in his possession contradicting the evidence of one of the witnesses, and both he and the learned counsel who was with him agreed that the letter was material, and agreed also to postpone the production of it. The witness came and went, and when he (Mr. Williams) conceived that the time had arrived for him to produce it, he was informed that his time was past, his opportunity gone by. Mr. Scarlett, who was on the other side, objected to it, with a taunt which produced an effect upon him, to which was probably owing the present accuracy of his recollection. It was said the letter was no evidence in the cause, and that he must be in the *incunabula* of his profession, to pretend to introduce it after having omitted to do so at the proper moment. The same rule held in parole evidence; it was not the tenor of what a witness said, but his words that constituted evidence. Suppose an action to be brought for money lent, and John Nokes to prove that a loan of 20*l*. was made on a given day by the plaintiff to the defendant; if counsel suffered such a witness to pass, and after-

wards proposed to call him to show that the loan was the other way, such an examination would not be allowed. By the same rule, and not from any remote, but from an unerring and absolute analogy, he submitted, that if he now suffered this woman to escape without questioning her as to the contents of the writings which she had admitted to be her own, he should be hereafter liable to be told that the time of contradiction was gone by. Had he waited till a future period, the argument would have been that he had lost his opportunity by his own default, and it would have come with irresistible force. He felt the utmost degree of respect for the decisions of their lordships, but he declared to God, he could not understand on what principle of law or reason the objection of the attorney-general was founded.

Mr. *Brougham* said, that the question now depending was of the utmost importance as it applied to the evidence which might be settled or unsettled by it. It was of great importance to the cause immediately before them, to their proceedings on all other occasions, and involved a rule of practice that might affect the administration of justice, not only in the highest courts, but before the lowest tribunals. The great rule of evidence, as laid down and recognised, he took to be this—that without any previous examination, the letters or written statements of either party on the record may be given in evidence, because by putting or suffering himself to be put on the record, he let in the adversary to produce all the declarations or statements which during his life he had ever made. Suppose he gave a witness under cross-examination no knowledge of the existence of a written document contradicting his testimony most materially, in what situation would the witness be placed. *Non constat* that, after the cross-examination had been concluded, the witness might not be able to explain the discrepancy, and reconcile an apparent opposition. He could not perhaps do so without the refreshment of his memory, and that refreshment would arise out of the written document, whether a letter or otherwise, in the possession of the counsel. The common sense of the thing was entirely on the side of her majesty, and against putting and reading the whole letter. All a man's writings were evidence against himself in any cause instituted by him, or where he was defendant: but the case of a witness was different, and this was the first time it had been ever contended that all a witness had written might be produced in opposition to his testimony. If their lordships should decide contrary to what he had now argued, they might put a new rule round the necks of the Queen's counsel, but their reason would remain their own.

The *Attorney General* said, that the whole point lay in a very narrow compass. Unquestionably the letters of a party in a cause were evidence against him; but no declaration in writing by a witness could be received in evidence to contradict him without being read. In cross-examination all that was wanted was, the negative by the witness, and then the contradiction must be supplied: but it must be supplied in the regular way, and according to established rule. Where a witness was contradicted by parole, the witness to contradict him must be produced and cross-examined by the adverse party, and the same rule applied to documentary evidence: that also must be produced and read, that the nature of its contents might be properly judged of. This was the fallacy of the argument on the other side; for if they asked questions regarding letters, those letters must be produced at the proper period. In the case before baron Wood, it was merely decided, that matter collateral to the issue could not be introduced; but here the letter itself was put into the hands of the witness, and the consequence was, that if it were to answer any purpose, it must be read in due course. It had been contended, that this was doing injustice to the witness, who ought to be allowed an opportunity of explanation; but if that were required, it could be afforded at any time by recalling the witness. The written declaration of a witness, like every other written paper, must speak for itself: no examination of its contents was ever allowed by parole, and if he did not cite authorities upon this point, it was because the rule was too well known and too often acted upon, to need such support.

Lord *Erskine* observed, that if questions founded on the letters were put to the witness, no further use could be made of them then, but they must be produced in the proper stage of the case hereafter. He begged leave to say, however, that whatever might be the rules of courts of law where the case of the accused followed immediately that of the accuser,

some difference might here be allowed, because one anomaly of this proceeding was, that an interval must be allowed for the preparation of the defence. The proper course seemed now to be, that the contradiction in the letter should be stated to the witness, and that she should then be required to give her explanation or reconcilement of it, the House being the judge how far that purpose had been accomplished. Either this must be done, or the counsel for the Queen would be deprived of making the cross-examination as to this point, and what it produced, a part of their case.

The following Questions were then drawn up by the Lord-Chancellor, and proposed to the Learned Judges:

"Whether, when a witness is cross-examined, and upon the production of a letter "to the witness under cross-examination, the "witness admits that he wrote that letter, "the witness can be examined in the courts "below whether he did or did not in such "letter make statements such as the counsel "shall, by questions addressed to the witness, "inquire are or are not made therein; or "whether the letter itself must be read as the "evidence, to manifest that such statements "are or are not contained therein: And in "what stage of the proceedings, according to "the practice of the courts below, such letter "could be required by counsel to be read, or "be permitted by the court below to be "read?"

The Questions were delivered to the Lord Chief Justice, and the Learned Judges requested leave to withdraw. After a short time the Learned Judges returned.

Lord Chief Justice *Abbott*.—My lords; the judges have conferred upon the questions last proposed to them by your lordships: the first part of your lordships question is in these words, "Whether, when a witness is cross-examined, and upon the production of a letter to the witness under cross-examination, the witness admits that he wrote that letter, the witness can be examined in the courts below whether he did or did not in such letter make statements, such as the counsel shall, by questions addressed to the witness, inquire are or are not made therein; or whether the letter itself must be read as the evidence, to manifest that such statements are or are not contained in the letter?" My lords; in answer to this part of your lordships question, I am to inform your lordships, that the judges are of opinion, in the case propounded, the counsel cannot by questions addressed to the witness, inquire whether or no such statements are contained in the letter, but that the letter itself must be read to manifest whether such statements are or are not contained in that letter. My lords; in delivering this opinion to your lordships, the judges do not conceive that they are presuming to offer to your lordships any new rule of evidence, now for the first time introduced by them, but that they found their opinion upon what, in their judgment, is a rule of evidence as old as any part of the common law of England; namely, that the contents of a written instrument, if it be in existence, are to be proved by that instrument itself, and not by parole evidence. The latter part of your lordships question is in these words; namely, "In what stage of the proceedings, according to the practice of the courts below, such letter can be required by counsel to be read, or can be permitted by the courts to be read?" My lords; in answer to this, I am to inform your lordships, that the judges are of opinion, according to the ordinary rule of proceeding in the courts below, the letter is to be read as the evidence of the cross-examining counsel, as part of his evidence in his turn, after he shall have opened his case; that that is the ordinary course: but that if the counsel who is cross-examining suggests to the court that he wishes to have the letter read immediately, in order that he may, after the contents of that letter shall have been made known to the court, found certain questions upon the contents of that letter, to be propounded to the witness, which could not well or effectually be done without reading the letter itself, that becomes an excepted case in the courts below; and for the convenient administration of justice the letter is permitted to be read at the suggestion of the counsel; but considering it however, as part of the evidence of the counsel proposing it, and subject to all the consequences of having such letter considered as part of his evidence.

The Counsel were again called in, and were informed, that when a witness is cross-examined, and upon the production of a letter to the witness under cross-examination, the witness admits he wrote that letter, the witness cannot be examined whether he did or did not in such letter make statements such as the counsel shall, by questions addressed to the witness, inquire are or are not made therein, but that the letter itself must be read as the evidence, to manifest that such statements are or are not contained therein; and further, that it is the opinion of the House, that in the regular course of proceeding, the letter ought to be read after the counsel cross-examining shall have opened his case, but that the House will upon the request of such counsel, stating that it is expedient for the purpose of his more effectually, in the course of his cross-examination, propounding further questions necessary for the interest of his client, permit such letter to be read, subject to all the consequences of having such letter considered as part of his evidence.

Mr. *Brougham*, before he made his election

whether he would wish the letters read now or at a future stage, reminded the House of a precedent in the duchess of Kingston's case, in the State Trials, where Judith Phillips had been called by Mr. Mansfield, counsel for the defendant, in order to enable him to read a letter, which letter was read as part of the cross-examination, and not as part of the defendant's evidence, whose case was not opened until afterwards. On this authority he should have submitted that he might read the letters of the witness Demont as part of her cross-examination.

The *Lord-Chancellor* told the counsel for the Queen, that they must make their choice whether they would have them read now, for the greater convenience of cross-examination, or would produce them in a subsequent stage of the business. In both cases they must be considered as the evidence for and of the Queen. He would look more particularly at the duchess of Kingston's case.

Mr. *Brougham* added, that Mr. Williams had one or two other questions to put to the witness before he examined her on the contents of the letters.

The Witness was again called in.

Mr. *Williams*.—You have been thirteen months in England? Yes.

Any more than thirteen months? I came last year in the month of July.

Were you ever in England before? No.

Who came with you? One of my sisters, a friend, Mr. Sacchi, and Mr. Krouse, who accompanied me.

Your retinue consisted of two females and two males? It was not my suite, we were in different carriages.

But travelling together at the same time, coming at the same time? Yes.

From Vienna, or where? From Switzerland.

You have been at Vienna, have you not? I have not been at Vienna except with her royal highness.

Not since you were in her royal highness's service? No.

Have you been at Milan since? Yes, once.

Were you examined there? Yes.

How many examined you; was Vimercati the counsellor one? Yes, Vimercati and three other gentlemen.

Was there any other lawyer besides Vimercati? There was the advocate Vimercati, three other gentlemen, and those who wrote; I do not know whether there was an advocate.

Was Mr. Powell one? Yes.

Was colonel Brown there? Yes, he was there.

You were examined more than once, were not you? I was examined but once at Milan.

Any where else? I was examined only at Milan.

How long ago was that? A year ago, in the month of January or the commencement of February.

Where did you go from, in order to be examined at Milan? I went from Switzerland to Milan.

You had been at your own house, had you? Yes.

Then living at your own home, not in service? Yes, I lived at home.

Have you finally agreed what you are to have for your evidence? They have promised nothing for my evidence.

Have you not asked for any thing before you came, or for any promise, before you came over to this country, upon your oath? No.

Or for any thing else for your personal presence? No, I have only demanded that they should pay the expenses of my journey.

Do you mean to swear, that you expect nothing for coming to this country, and for giving your evidence? I expect nothing at all for having come here.

No benefit or any profit of any kind, you mean to swear? I expect no profit for coming here.

You do not believe, upon your oath, that you are to receive any money, or benefit of any kind, for coming to England? I expect no advantage from coming here, only that they should pay my expenses back to Switzerland, nothing more.

That is all you expect? Yes, that is what I expect.

And that is all you believe you are to get? I expect nothing else.

You believe you shall have nothing else? I do not believe that I shall have any thing more.

You stated at the outset that you never had been in service since you quitted the princess of Wales; is that so, or is it not? I have been in no other service.

Mr. Brougham tendered the letters in evidence. The Solicitor General desired their lordships might be informed, whether the counsel against the Bill meant to put questions upon the letters after they should have been read. Mr. Williams, of counsel for the Queen, stated that he should put a question upon them. An observation being made on the above statement, it was explained to be the intention of the counsel for the Queen not to put a single question merely *pro formâ*, but questions *bonâ fide* arising out of the subject-matter of the letters.—Mr. Brougham stated, that the reading of the letters would occupy a considerable time, and that he was desirous the witness should not have an opportunity of reflecting upon them before the questions were proposed to her upon them.

Ordered, that the further consideration and second reading of the said Bill be adjourned to to-morrow.

HOUSE OF LORDS.

Saturday, September 2.

The order of the day being read for the further consideration of the second reading of the Bill, intituled "An Act to deprive her Majesty, &c." and Counsel being called in,

The *Lord Chancellor*, by leave of the House, stated, in their presence, that a reference having been made by the learned counsel for her majesty, at the close of yesterday's proceedings, to the trial of the duchess of Kingston, where it was stated, that a letter had been presented to a witness (Judith Phillips) on cross-examination, and having been acknowledged by her to be her hand-writing, had been afterwards read in evidence, not as part of the defendant's case; his lordship had since referred to the printed trial, and had compared the statement contained in that with the Journals of their lordships' House; and his lordship read at length the proceedings touching the same, both as they appeared in the printed trial and upon the Journals of the House; after which, the counsel were informed that, in the opinion of the House, the proceedings touching the said letter, as set forth in the printed trial, did not appear to establish, or destroy, or affect the opinion delivered by the learned judges to the House yesterday; and that, according to the proceedings as they appeared upon the Journals of the House, there was no statement whatever there, to show that the letter was ever read: therefore, the House was of opinion, in the present case, to adhere to the rule as laid down yesterday.

Lord *Erskine* said—My lords, it does not appear to me that what has been read from the duchess of Kingston's case goes at all to oppose the opinion delivered by the learned judges yesterday; and if it had, I should have thought it entitled to no regard. I am now approaching fast to be one of the oldest members of the profession of the law, and I have no hesitation in declaring to your lordships, that the opinion delivered by the judges so entirely corresponds with all the principles that I collected at the bar, and from the whole practice of the courts in my time, that if any judge had held a contrary opinion, which it had become my duty to resist, I would have tendered a bill of exceptions, and can have no doubt that it would have been supported upon a writ of error, by an unanimous judgment of this House.

The *Lord Chancellor* said, he was clearly of opinion, that the law, as laid down by the learned judges yesterday, had been most correctly stated. He repeated, that in the printed report of the duchess of Kingston's case, there was nothing which either confirmed or contradicted the decision of the learned judges; but their lordships' Journals afforded an apparent confirmation of that decision.

Lord *Redesdale* also expressed himself thoroughly satisfied with the decision of the judges. That the letter had not been allowed to be read in the case of the duchess of Kingston, was evident; because, after Mr. Wallace had been heard, no entry appeared in the Journals of its having been read.

The *Lord Chancellor* then informed the counsel against the bill, that they might proceed with their cross-examination; adhering to the rule which their lordships had laid down yesterday.

Mr. *Brougham* said, he presumed with respect to reading the letters of the witness in that stage of the proceeding?

The *Lord Chancellor* replied in the affirmative. If the learned counsel proposed to read them in the present stage of the proceeding, they must be prefaced by a statement, according to the rule laid down yesterday.

Mr. *Brougham* begged to ask whether his lordship did not think, in the case of the duchess of Kingston, that Mr. Wallace intended the letter to be read as part of the proceedings when he read it?

The *Lord Chancellor* said, that he thought the letter might be meant to be so read at the time, but as far as they could judge from what they saw on the Journals, an objection being taken, Mr. Wallace (whose knowledge of the law, and especially of the law of evidence, was as great, perhaps, as that of any man who ever lived), seeing what sort of an objection that would be in the result, thought, in the exercise of his discretion and judgment, that it would be better to put the letter in his pocket, and say no more about it.

Then *Louisa Demont* was again called in, and further cross-examined as follows by Mr. Williams, through the interpretation of Mr. Garston.

To what place did you go when you quitted the service of the princess? To Switzerland.

Did you go to the house of your father and mother? I have no father, but I went to the house of my mother.

Your mother is married again, is not she? Yes.

How long did you remain with your father and mother after you went there? About a year; a year and a month, about that time.

To what place did you go from thence, from your home? I went to Milan.

Was that to be examined as you described yesterday? Yes.

Where did you go from Milan? I returned to Switzerland.

Home? Yes.

How long did you remain at home upon that occasion? Nearly three months.

Where did you go to then? Here into England.

Who desired you to go to Milan, in order to be examined? Mr. Sacchi came to seek for me on the part of the commission.

Who is Mr. Sacchi? An Italian gentleman.

A clerk of Vimercati, or what; do you know what he is besides being a gentleman? No.

What is he besides a gentleman? I do not know what he is; he was a soldier (en militaire), but I do not know what he is at present; he was an officer.

Did you know of his being an officer? Yes.

Where did you know him before he came for you? In the house of the princess, or with the princess.

He also had been in the service of the princess, had he? Yes.

When he came for you, he was no longer in the service of the princess? No.

And at that time he was in the service of the Milan commission, was he? I do not know in what service he was.

Employed by them? I know that he came to seek for me, or fetch me, but I do not know whether he was employed otherwise.

What year was it that he fetched you to go to Milan to be examined? A year ago, last year.

Was it in the year 1818 or 1819? He arrived in the month of December 1818, and we left in the January 1819; it is a year ago last December, that he came for me.

Then it was the beginning of 1819, was it? Yes.

Then up to that time, if you are understood rightly, you had been living with your father and mother? Yes.

Then three months more with them, and then you came over to England? Nearly three months.

How long were you at Milan? About two months.

What was given to you for going to Milan, any thing or nothing? They gave me nothing but to pay my journey and my expenses; they paid my journey and my expenses, but nothing more.

Then after that time, when you were three months at home, you maintained yourself, did you; you lived upon your own means? Yes.

And all the time, from the leaving the service of the princess, till going to Milan? Yes.

If you are rightly understood, you have received nothing only your journeying expenses? Yes.

That is all? Yes.

You have supported yourself here also, have you? No, my expenses have been paid me here.

That is all, only the expenses? Yes, only my expenses.

If you are rightly understood, you said yesterday, that you had been examined only once at Milan before you came over to England? I was examined only once at Milan, but I was several days being examined.

Several days under examination? Yes.

Were those successive days together, or were they at different times? Following days successively.

Then in fact it was only one examination at Milan? Yes, at Milan.

Have you not been examined since you came to England? I have not been examined; I have been sworn once, but not examined.

When were you sworn? About two months ago.

By whom? By a magistrate, whom I do not know.

Where was it, what magistrate? I do not know the magistrate, but I was examined in the house of Mr. Powell.

Did you say sworn? Sworn.

Was it upon the subject of the evidence you have been giving in this place? Yes.

Then there was an examination in writing, was there a paper produced? I have seen my own paper.

Was not it there at the time? Yes, it was with Mr. Powell at that time.

Was it the same paper that had been written upon at Milan? I do not know whether it was the same paper, but it was my deposition.

It was your deposition which you signed, was it not? I have signed a deposition, but I do not know whether it was in the same paper.

Did you not sign that paper of which you are now speaking, to which you were sworn? The day on which I was sworn do you mean?

Either then or at another time? I saw my deposition, but I do not know whether it was the paper that I signed.

You had it before you at the time you were sworn, had you not? Yes.

You heard the contents of it read, did you not? I did not hear the contents read.

But you saw the paper? I saw the paper.

Did not the paper contain your evidence? Yes.

And to that you were sworn by a magistrate? Yes.

Mr. Powell was the gentleman that examined you in Italy? Yes.

Did he ever examine you in this country, except that time when you were sworn? No.

The Solicitor General objected to the question in that form, as assuming that Mr. Powell had examined her.

Mr. *Williams.*—Did Mr. Powell examine you at any time in England? No.

Has he not often seen you in England since you arrived? Sometimes.

Has he not seen you frequently since your arrival in England? He has not seen me often.

Has he seen you a dozen times since you arrived in England? Yes, more.

Twenty, perhaps? I do not know how often.

That was not upon the subject of your evidence, was it? No, it was not upon the subject of my evidence.

During those visits that you describe, more or less, you had no talk upon the subject of your evidence, had you; do you mean to represent that? I cannot say we have said nothing about my evidence, because I do not recollect it.

At the time you were sworn, was there a book which you kissed? Yes.

You were regularly sworn, were you not? I kissed the book as here.

To the truth of your deposition which was then before you, was it not? Yes.

Mr. *Brougham* here interposed, and begged that the witness might be ordered to withdraw. After she had retired, he put it to their lordships whether the disclosures already made ought not to vitiate the whole of the witness's evidence. It appeared that she had been brought before a magistrate, and there sworn, through the activity and zeal of the attorney on the other side; and this, after the proceedings in the case had been commenced before their lordships. It was for their lordships consideration whether they were not called upon to interfere in consequence of the influence which had been exercised over the witness, and of the most outrageous proceeding which she had described.

Mr. *Williams* followed in support of the objection. He observed, that if the evidence of a witness, situated as Demont was, were received, very considerable danger would probably arise from the precedent. Every witness came into court to speak the truth, the whole truth, and nothing but the truth. But here a party came forward, whose conscience was already pledged to an *ex-parte* statement. Might not such a pledge, under the sanction of an oath, affect the conscience of that witness, in prejudice to a declaration of the truth; or, according to the language of the oath which was here taken, might it not prevent her from declaring "the whole truth?" Might it not have the effect of so tying down and fettering the conscience of the witness, as to operate against the course of justice? The conscience of a witness ought, in every court of justice, to be perfectly free and unfettered; which, he submitted, was not the case here.

The *Lord Chancellor* was of opinion that, the objection taken by the learned counsel did not affect the competency of the witness to give evidence. If the circumstance alluded to affected the credit of the witness, it would be open to observation when the whole case was understood; but to stop the cross-examination now, would be acting against the resolution to which their lordships had come. In ordinary cases he was quite clear that observations of the nature made by the learned counsel could only be urged after the re-examination, as affecting the credit of the witness's testimony.

The Witness was again called in.

Mr. *Williams*.—Then you are understood to say, that, with the exception to which you have alluded, the swearing and the examination at Milan, you have not been examined at all upon this subject till you came here? No.

Mr. *Williams* stated, that, with the permission of the House, he proposed now to read two letters; that three had been proved, but that, of course, it was at the option of the counsel whether they would read the whole, and that, on reading the third, it did not occur to him to be necessary to put any questions upon cross-examination.

The counsel were asked, whether they now proposed to read those letters under the conditions which had been stated in the communication made to them by the House.

Mr. *Williams* answered "Certainly."

Mr. *Brougham* proposed, that the letters should be read first in French by one interpreter, and then the translation read by the other; the interpreter who had read the letter holding it in his hand, and stating whether he agreed in the interpretation.

Then a letter in French, signed Louise Demont, addressed mademoiselle Mariette Bron, at Pesaro, and dated Collombier, 8th February 1818, was read.

During the reading of the letter the witness remarked, that a person was named in it who might be exposed, by his name being made known; that she wished that no person of whom she had spoken should be exposed.

Mr. *Brougham* stated, that he had no desire that any person not connected with the proceedings before the House, should be introduced by the reading of the letter; and consequently that he had no objection to the name being omitted in the reading or in the copy of the letter, as it might appear upon their lordships minutes.

Their lordships directed, that the name should be omitted in entering the letter on the minutes; and the interpreter was directed,

if he should meet with any other name in reading the letter, not to read it until he had learned from the counsel whether it was necessary that it should be stated.

Then Mr. Garston, the interpreter, produced a paper, and was asked,

Mr. *Brougham to Mr. Garston*.—Have you compared that in your hand with the original? I have.

And have found it to be an accurate translation? I have.

The original letter was handed to Mr. Pinario, and the translation was read by Mr. Garston.

Then a letter, signed Louise Demont, addressed to her royal highness the princess of Wales, and dated Rimini, the 16th November 1817, was read in French, by Mr. Garston.

The translation of the same was read by Mr. Garston, Mr. Pinario comparing the original.

The interpreters requesting that they might have an opportunity of a more careful revision of the translation of the two Letters* just read, were directed to retire as soon as their services could be dispensed with, and when they should have agreed in the translations, to present the same to the House.

Then the witness was asked:

Mr. *Williams*.—Who is the count to whom you allude in the letter first read? The count Schiavini.

Was he at that time in the service of the princess? Yes.

Was that journal of which mention is made, a journal comprising the whole time that you were with the princess?

The Solicitor General objected to the question, submitting that the journal must speak for itself.

The counsel were informed that the question might be put.

The question was proposed.

I do not believe it contained the whole time.

Did it not comprise the greater part of it? Yes.

State more particularly who that Madame Gaulisa is, to whom you refer in that letter? A Swiss lady.

A Swiss lady residing where? At Lausanne.

How near to Lausanne is the residence of your father and mother? Three leagues.

Madame Gaulisa is not a relation of yours, but some acquaintance or other that you formed at Lausanne? Yes, she is not my relation.

But an acquaintance of yours residing at Lausanne? Yes.

Where does your aunt Clara live, to whom you allude? At Collombier.

In the same place of course at which your father and mother reside? Yes.

Do you not, in that letter, speak of taking some refreshment at your aunt Clara's? I have already said that this letter was a double entendre for my sister.

Is it true, or is it not, that a person unknown did desire to deliver you a letter? If I may have permission, I will explain every thing respecting that letter.

First of all give an answer to the question —Is it true, or is it false, that an unknown person did desire to deliver you a letter? I have once received a letter without a signature.

Was that letter delivered by an unknown person, who came when you were at your aunt Clara's? I do not recollect whether it was at my aunt Clara's, but this letter was sent to me at Collombier.

Did that unknown person come and deliver the letter to you either at your aunt Clara's, or not? I do not recollect where the letter was given to me.

Did any unknown person deliver to you a letter? I have said I received a letter at Collombier, but I do not know who delivered it to me, I do not recollect.

Are you now speaking of that letter to which you refer in the letter which has been read? It was a letter without a signature; but it did not contain what you [the Interpreter] have read.

Then it is not true that when you were taking refreshment at your aunt Clara's, you did receive a letter which proposed that you should go to London, and so on? I do not recollect whether I received it at my aunt Clara's.

Did you receive such a letter at all, aye or no? I have received a letter like that, but it had not the contents exactly of that which you [the Interpreter] have read.

Did that letter you received contain any proposal to go to London? I wish to explain this letter.

Answer the question, and then you may do it; did you or did you not receive a letter that proposed to you to go to London? I received a letter which said to me, that if I would go to London I could be placed as a governess, if I were provided with letters of recommendation. I wish you would have the goodness to let me explain why I wrote this letter to my sister; I wish to go back to the time in which I was dismissed from her royal highness's service; I was to start the following morning; Mr. Pergami came into my room—

Mr. Williams objected to a statement of any conversation with Mr. Pergami in the absence of the princess.

The Solicitor General submitted, that the witness was at liberty to state all the circumstances, whether in other respects evidence or not, that induced her to write that letter, and the statement of which was necessary for the purpose of explaining it.

The counsel were informed, that the state-

* These Letters will be found in the proceedings of Monday.

ment might be received by way of explanation.

The Witness proceeded as follows:

Mr. Pergami came into my chamber and said, that her royal highness wished to dismiss my sister also on account of me. I was very sorry for that, for my sister not having any fortune at home could not live at home. I begged Mr. Pergami to speak to the princess, in order that she might keep my sister: he promised to do it, and at the same time advised me to write a letter to her royal highness because she was much offended against me, and to recommend my sister to her, and to ask her pardon. I wrote the letter at Pesaro.—The following morning, when I parted with my sister, she recommended to me when I wrote to her to write to her nothing which could prejudice or hurt her; I promised that I would, on the contrary, do every thing in my power in order that she might keep her place; I wrote also to her royal highness the letter which has been seen from Rimini. I wrote to my sister several other times, and always in those same letters I spoke much of her royal highness, because I knew that they would be intercepted.—About the same time in which I wrote that letter, I had formed the idea of quitting Switzerland and coming into England, at the time that I received information that if I could set off, and have letters of recommendation, I should be placed here as a governess; at the same time being afraid that her royal highness would dismiss my sister, I wrote to my sister, and I dare not write freely for fear the letter should be seen: I said to my sister what has been read in the letter, only to let her know, that if she were dismissed, I would find the means of placing her here, and that I would pay her journey; at the same time, I knew that since I had left the princess, she had always said that she was afraid I should speak against her, and as I knew that the princess would read the letter also, I wished that she might be convinced that I would not speak against her even if I came into England. I have often had questions put to me in private conversations, and I have always avoided saying what took place in the house. This is the reason why I wrote that letter to my sister.

Have you given a full explanation in your conception, or have you more to add? I have said that I wished to pay the journey of my sister; the allusion to the banker was to say, that I wished to take the money which I had with my guardian and place it here, because they had told me the interest would be double, and if I had need of it here for my sister or myself, I should be able to make use of it.

Have you any more explanation? I have no further explanation.

Have you any further explanation; consider well before you answer? I wished by that to convince the princess, who doubted of my speaking of her, that though I should have questions put to me, money would not tempt me.

Have you any other explanation? I wish to think a little;—I must say also that at that time I felt a great degree of attachment to her royal highness, and grateful for the kindness she had used towards me, whilst I was in her house.

Any more? I do not recollect entirely all the circumstances respecting this letter, but that is as far as I can recall to my mind.

You saw the letter last night sufficiently to know it again, did you not? I have seen it, and I said I could know it again, but could not recall the whole of its contents.

But you saw the date of it, did you not, and the place from which it was written? I have seen two letters, but I have not remarked the date.

Did you not see it last night, when it was put before you? I saw two letters placed before me.

Did you not see the date? I do not know which of the two it was, as to the date.

Did you not see the dates of both? I have only seen Collombier, I have not made observation on the date.

But you did see the one that was written from Collombier, that you noticed? I have seen Collombier at the top of one.

When you went from this place last night, who accompanied you? A lady, one of my friends.

Do you mean to represent that nobody else has seen you since you were examined here last night? I have seen the people of the house, and the person who accompanied me, who is some one whose name I do not know, but who was sent to fetch me.

Did you not remain somewhere near to the place where you now are, for some time before you went home? I went directly home.

Did you not stay near the place where you are now, before you went to the place where you reside, wherever it is? In going out hence, I went direct home.

The interpreter stated, that the term used might apply to the time of her going home, or to her going straight home.

In going hence, I went directly home, without going to any other place.

You are not asked whether you went straight home, whether you went out of your way; but whether you did not remain somewhere near this place before you set out to go home? I remained a moment in a room up here in the house.

How long did you remain in the room above? I do not recollect perfectly.

Do you mean to represent that you did not stay above a moment, as your phrase is; do you mean to swear that you did not stay half an hour above stairs? I will not swear it; I may have remained there half an hour, perhaps, nearly.

Will you swear you did not remain there an hour? I cannot swear as to the time that I remained there.

What did you mean by saying this instant that you remained only a moment? I meant that I did not remain there long.

Will you swear you did not remain there two hours? I cannot swear as to what time I stopped there.

Do you mean to represent that nobody saw you in that room, except the person with whom you went home, and the woman whose name is not asked? I saw the lady who accompanied me home, and the gentleman who came to fetch me, in order to conduct me.

You just now asked for a little time when you were asked whether you wanted to give any more explanation; do you mean to represent that you have not been thinking of the subject of these letters ever since you were examined in the afternoon of yesterday? I have not passed my time in reflecting upon them, but I have thought about them.

Are you to be understood that you have been thinking of them, but not thinking of them all the time? I have not been thinking of them all the while, because on my arrival at home I retired to my bed-chamber.

What do you mean by the capital of Europe in the letter which has been read; do you mean London? It is so long since I wrote the letter, that I cannot exactly recall what I meant by it.

Having heard it read in the French, and also in English, do you mean now to represent that you do not know what you meant by the capital of Europe at the time you wrote that letter? It is impossible to recollect, since such a distance of time, what I meant by all the words; I cannot recollect; I have told you that it is so long since, I cannot recollect.

The following extract was read from the letter.

"Pas plutôt j'ai été partie de Pesaro, qu'on l'a sû avec toutes les circonstances dans la capitale de l'Europe."

What place did you mean to describe by the capital of Europe? I cannot recall to my mind what I meant by that expression, because it is often my custom to write in a double sense, and I sometimes call Lausanne and Collombier the capitals, in jest, in joke.

In your jest, have you been in the habit of calling Collombier the capital of Europe? I was often accustomed to call Collombier the capital, in writing to my friends, joking.

Whether you meant that place now in writing that letter, you do not know? I do not know now.

In your letter you say that you want money? Yes.

Was that so, or was it not? Perhaps I had no money at home; but if I had want of money, I could ask it of my guardian, who had it always.

Did you, or did you not, at the time you wrote, want money or not? I do not recollect whether I had money at home, but if I had need of it, I could ask it of my guardian; perhaps I had not money at home.

Do you mean that you were at all supported by your father and mother during the time you were in Switzerland, after you quitted the princess? I paid board to my mother for my maintenance.

You were not assisted in any way during all that time with money by any body? I do not recollect that any one lent me money.

Lent it, advanced it, or gave it? No one gave me money.

You mention in the letter a sister besides Mariette? Yes.

You were much attached to that sister, were you not? I was always much attached to her.

And that sister you wished very much to go into the service of the princess, did you not? My sister wished to travel herself.

Did you not wish her to go into the service of the princess? Yes, because she had often spoken to me to place her, to put her into a situation.

What was the age of that sister? Nearly nineteen, I cannot recollect exactly.

Was she then nineteen, or now? At that time.

What line of life is your step father in at Collombier? He is a farmer.

Does he farm his own estate? He has a small domain which he cultivates himself.

He is in tolerable circumstances, is he? He can subsist only in working hard, he and my mother also.

Does he not maintain himself by his labour? Yes.

He lives in a small cottage, does he not? A small house.

And has some family living with him now, has he not? My mother and two daughters.

Re-examined by Mr. Solicitor General, through the interpretation of Mr. Pinario.

Did you say that your father had any property of his own? My father has some lands which belong to him.

Is that the land which he cultivates? Yes.

Is it with that land and with that labour that he maintains himself? Yes.

Have you yourself any proper[illegible] Yes.

To what amount in the year? [illegible]ething about fifty louis.

Is that the annual amount of the income which you have? Yes.

Is your sister Mariette still in the service of her royal highness? Yes.

Has she any thing of her own, except the wages which she receives from her royal highness? She has nothing but what she receives from her royal highness.

Is she your own sister, or your half sister? By the mother's side only.

You stated yesterday, that you were dis-

missed for saying something which was not true—that in effect it was not true; explain the circumstances of your dismissal, (and for what cause it was you were dismissed from the service? I was dismissed the service of her royal highness, because she had been told that Mr. Sacchi had given out that her royal highness was in love with him, and that it was I that had told him from the princess. I wrote a letter to Mr. Sacchi; this letter was taken up at the post; and because I said at the end of the letter, that the princess loved and esteemed Mr. Sacchi as before, "aimoit" has two senses, as in the former time; I explained to her royal highness, that I did not mean at all that it was love, but that her royal highness liked Mr. Sacchi in the same manner as other persons in her household. After this letter I was dismissed, because her royal highness thought that it meant love; and yet it was not love at all that I intended.

What were the expressions which were canvassed by her royal highness, the particular expressions which you allude to? As far as I can remember, I said in the letter that her royal highness loved in the sense I have explained, and esteemed Mr. Sacchi as in former time; the words that I used were "aimoit et estimoit comme dans le tems passé."

When was that letter written? At Pesaro.

That letter in which those words were used, "aimoit et estimoit comme dans le tems passé?" Yes.

While you were writing that letter, did any person come into the room? Mr. Pergami.

Did he see you writing? Yes.

Did you afterwards yourself go to Pesaro? I went myself to Pesaro.

With the letter? With the letter.

Was any person appointed to go with you? My sister and Mr. Hieronimus were to go with me.

After Pergami came into the room, was any other person appointed to accompany you? Mr. Pergami came again into my room, and told me I was to go with his cousin Pergami, who was going to Pesaro.

Did his cousin Pergami accompany you? He accompanied me as far as Pesaro.

Did you put the letter into the post office yourself? Myself.

With [illegible] own hand? With my hand.

Did [illegible] on the following morning, see that lett[illegible] the possession of any person? Yes.

In whose hands? In the princess's hands.

Did you afterwards write a second letter? Yes.

Was that letter also intercepted?

Mr. Brougham objected to the question, stating, that there was no proof of the former letter having been intercepted.

Mr. Solicitor General.—Did you afterwards see that second letter? I saw it a long time afterwards.

When you were writing that second letter, did you communicate the contents of it to any person? To nobody.

By a Lord.—To whom was that second letter addressed? It was not addressed to Mr. Sacchi, there was another name; I do not recollect whether it was Penchaud or not.

You have stated, that you did not communicate the contents of that second letter to any person; did her royal highness afterwards say any thing to you about the contents of that second letter? It was after this second letter that I was dismissed.

Did her royal highness mention any part of the contents of the second letter to you? I do not recollect that she mentioned about the second.

Did you ever, on any occasion, state that her royal highness was in love with Sacchi? No.

Was the charge that was made against you true or false? It was not true.

Was her royal highness, to your knowledge in love with Sacchi?

Mr. Williams objected to the question.

The counsel were informed that they might ask what was meant by those words in the letter to which the witness had referred.

Mr. Solicitor General.—At the time when this letter was produced to you the following morning by her royal highness, was any person in the room with her royal highness? There were several other persons.

Where was Mr. Pergami? In the same room with her royal highness.

To what place was that letter addressed which you put into the post office? It was addressed to Milan.

How far is it from Pesaro to Milan? I think one may travel in two or three days by the post.

The question refers to the letter you yourself put into the post office? Yes.

A letter produced here is dated from Rimini? Yes.

Did you write that letter at Rimini? I wrote that letter at Rimini.

How long was that after you had left her royal highness's house? It was the same day.

Besides the letters which have been produced here to-day, have you written other letters to your sister? I have written other letters to my sister.

Few or many? Neither many nor few; I mean some letters.

Can you state about how many? Five, six, or seven; something like that.

Whilst your sister was in the service of her royal highness? Yes.

Did your sister correspond with you and your mother? We never had any news from my sister.

What do mean by saying you never had any news from your sister? That my sister did not answer my letters.

Did you or your mother receive any answer to the letters which you sent to your sister

from any person? From some other person that wrote in the name of my sister.

Who was that other person? I cannot positively say.

Do you know the hand-writing of her royal highness the princess of Wales? Yes.

Can you say whether those letters were written by her royal highness?

Mr. Williams objected to the question.

Is this one of the letters [a letter being shown to the witness]? Yes.

Is that letter in the hand-writing of the princess of Wales? The hand-writing resembles very much that of her royal highness the princess of Wales.

Have you ever seen her royal highness write? Very often.

You are not asked positively to swear that this is the hand-writing of her royal highness, but do you believe it to be her hand-writing? I believe it is her hand-writing.

Did you or your mother ever receive any letters written in the hand-writing of your sister? My mother received a letter from my sister, while I was at Milan.

In the hand-writing of your sister? In the hand-writing of my sister.

You have stated that Mr. Pergami was present at the time that her royal highness produced the letter, which you had put into the post office? Yes.

Can you state what he said in the presence of her royal highness at that interview, when they were talking about your dismissal? Respecting the letter, he said, that it was true I had said the princess was in love with Mr. Sacchi. I made a proposal to the princess to write to Mr. Sacchi, in order to have the truth from him, and Mr. Pergami opposed it.

What else did he do? Mr. Pergami accused me of having passed a night in the corridor with Mr. Sacchi. I said that my sister was present, and might declare that I had slept with her.

Was your sister present? My sister was there.

Had you slept with your sister? I had slept with my sister.

Was that charge which was made by Pergami true? It was not true.

Was any thing more done upon it? No.

You have been asked whether two months ago, or at any former time, you took an oath to your deposition? Yes.

Who applied to you for that purpose? To make me swear to my deposition, Mr. Powell.

For what purpose was it to be used? I do not understand the purport of the question.

Did he tell you for what purpose you were to take the oath, what was to be done with it? I do not recollect what Mr. Powell said to me.

As nearly as you can recollect, and try to recollect with accuracy, how long was it ago? As far as I can recollect, two months, or something more than two months.

Do you know whether it was after the Queen had arrived in England? Yes.

About how long after her arrival? I do not recollect nearly what time it was, I do not know what time it was that the Queen arrived.

Though you do not know what time it was that the Queen arrived, do you know how long it was after the Queen had arrived, that you took this oath to the deposition? I believe it was not long after the Queen's arrival.

Have you ever heard of a committee of the House of Lords? Yes.

Was it after you had heard of that? I rather think it was after.

Before you took that oath, was the deposition read over to you, or did you yourself read it over? I read it myself.

Now to go back for a moment to Naples, you have mentioned that you saw Pergami in the small corridor in his shirt, and that you went out of the door from the corridor? Yes.

Did you observe any thing done to that door after you went out of it? I saw that they shut the door.

Mr. *Garston*.—The words were, "Je vis que l'on fermait la porte."

When you say, that you saw that they shut the door, on what side was the door shut, on the side that you went out, or on the side of the corridor? It was shut on the inside.

When you say it was shut, do you know whether it was locked or not? I mean to say, that when they shut the door, I heard them give a turn to the key.

Mr. *Garston*.—The words are, "I heard that the key was turned."

You have stated, that you made the beds at Naples; how long after the arrival of her royal highness was it that you began to make the beds? Nearly two months after our arrival.

Who was it that made the beds up to that time? Annette Priesing.

How long did you continue to make the beds? All the time that I remained at Naples.

Did you afterwards continue to make the beds at Genoa? For some time.

For how long? Until my sister arrived, nearly one month.

Did you make the beds after that? No.

Was it in the whole about three months that you continued to make the beds? Nearly so.

You have stated, that Hieronimus's room at Naples opened into the corridor; was the corridor, into which that room opened, the small interior corridor, or some other corridor? It was another corridor.

Was it a private or public corridor, or passage? It was a corridor through which you passed to go to her royal highness's room, and through which passed Mr. Hieronimus, Mr. William, and myself, to go to our rooms.

You have stated, that on your first arrival here, you went by the name of Collombier; why did you go by that name? In order to be more quiet or peaceable here.

Since the arrival of the Queen, have you seen Hieronimus? I have seen Mr. Hieronimus on the staircase where we lived.

When was that? When we were in Dean-street.

Did he call upon you? He called twice in the same morning.

How long is that ago, as nearly as you can recollect? Seven weeks nearly.

Were those the only times he called upon you? No.

You have been asked about count Schiavini; when the servants left her royal highness's service, was it his business to give characters?

The Attorney General for the Queen objected to the question.

Mr. Solicitor General.—In what situation in her royal highness's household was monsieur Schiavini? A little time he was master of the ceremonies.

When the servants quitted her royal highness's household, did any body give them characters at any time?

Mr. Williams objected to this question, as not arising out of his cross-examination.

The following question was put by their lordships, at the request of the Solicitor General:

When the servants quitted the service of her royal highness, did any person in her household usually give them characters? Yes.

Who was that person? Several times I believe it was count Schiavini.

Examined by the *Lords*.

Earl of *Limerick*.—On your examination in chief you were asked whether you could describe the situation in which you found the large bed at Naples after the second night of your arrival there; you have said that you could not, but on the cross-examination of the learned counsel on the succeeding day, on being questioned as to the situation of that bed, you said you could describe it; what was the state of that large bed on the morning after the second night of your arrival at Naples? I said that I could not describe it, because I might have had to make use of terms which were not decent.

State distinctly what was the state of that bed? The bed cover was extremely pressed down in the middle, and there were things upon the bed which I had never seen before.

What were those things? Large stains.

Were those on the outside cover of the bed or the inside? Upon the cover.

Did you make any further observation? No.

Do you know for what purpose Hieronimus came to you in Dean-street? I do not know exactly for what object he came, because he spoke only to my sister.

Was your sister in Dean-street? Yes.

You have said that at the theatre of Saint Carlos the princess's dress was ugly, monstrous; what did you mean by those terms? Because the habiliment of her royal highness, had no shape at all; it was a great cloak of common red stuff.

Did the princess come down to the pit with that cloak on?

You have said that you yourself made many observations on what passed at the balls at La Barona? Yes.

What was the nature of those observations? I said, that during the evening the women who were at the ball went out with the servants all about the house, and I also saw them going into the upper rooms.

Did you make any particular observations on what passed at the balls themselves? Not in the ball-room itself.

Earl *Grey*.—On the night at Scharnitz, when you were ordered to take your bed and leave the room where the princess slept, where did you pass the remainder of the night? In a room where there were the countess Oldi and my sister.

Did you go to bed again? I laid my bed on the floor, and laid down again.

Dressed or undressed? I was half-dressed.

How long did you remain there, before you set out in the morning? Four or five hours nearly, as far as I can recollect; I cannot say precisely.

The following extract was read from the Letter, dated 8th February 1818:

"Tu vois, ma chere, avec qu'elle promptitude les ennemis de notre genereuse bienfaitrice agissent toujours; il faut qu'il y ait toujours des espions auprès d'elle, car pas plutôt j'ai été partie de Pesaro qu'on l'a sû, avec toutes les circonstances, dans *la Capitale de l'Europe.*"

What did you mean by that passage in the letter? I have already said that it is so long since the letter was written that I cannot recollect.

Was that true or not? Many persons had informed themselves about her royal highness in Switzerland, where I was, in private conversations.

You meant then to state, as of your own knowledge, that the princess had enemies who were acting bitterly against her, and that she was surrounded by spies? The princess herself had told me that she had spies and enemies.

But that letter was written at Collombier; were you not speaking then of what you knew yourself? I knew nothing myself; I spoke what she had said to me.

The following extract was read from the Letter:

"Mais voila-t-il pas que j'oubliois de te confier une chose qui te surprendra autant,

que je l'ai été moi-même: le 24 du Mois passé étant à gouter chez la tante Clare, on vint me dire qu'un inconnu demandait à me remettre une lettre, ne la voulant absolument pas confier à personne: je descendis et le fis monter dans ma chambre; juge de mon étonnement, après l'avoir decachetée; l'on m'y promettait *une haute protection* et une fortune fort brillante en peu de tems; elle étoit sans signature; pour me garantir de la verité l'on m'offrait de tirer chez le banquier autant d'argent que j'en voudrais; conçois-tu rien de si singulier; quelques traits echappés à la plume de *l'ecrivcur*, m'ont fait aisément decouvrir la fourberie, et je n'ai pas hesité de donner ma réponse dans des termes qui auront bien fait comprendre, que je n'étois pas tout à fait dupe; je n'ai pu malgré tous mes efforts tirer aucun eclaircissement du porteur, il agissait avec le plus grand mystère. Tu vois, ma chere, avec quelle promptitude les ennemis de notre genereuse bienfaitrice agissent toujours; il faut qu'il y ait toujours des espions auprès d'elle, car pas plutôt j'ai été partie de Pesaro, qu'on l'a sû, avec toutes les circonstances, *dans la capitale de l'Europe.*"

Earl *Grey*.—You have now heard the letter read, is not the assertion that the princess's enemies acted with bitterness, and that she was surrounded by spies, founded upon the fact that you have just stated, and not upon what the princess had told you? It was upon what the princess had said to me, that she was surrounded by spies and enemies.

Is not the statement of the fact of the application to you at your aunt Clara's immediately followed by that in which you have said that the princess is surrounded by spies? I have already told you that this letter was in allusion that it had been written to me that I might come to England and get a governess's place, if I had letters of recommendation.

When you wrote that letter, did you think that the fact you have stated, furnished any proof of the princess's being surrounded by spies? No; because the fact which I have stated had not taken place.

Are you to be understood that the fact, as stated in your letter, was not true? I had received such a letter, the letter alluded to, and what I added was a double entendre for my sister.

Do you then mean by double entendre, that you added what was false to what was true? I added something.

Something which was false? I did not do that in order to say something which was false, but I did it expressly that my sister might understand me, because I could not write freely to her.

What did you expect your sister to understand by this addition to what was true? I wished my sister to understand, that if she had been discharged by the princess, I should have means of placing her here.

And it was necessary for that purpose to say that a person had offered you money upon the pretext of making you a governess, which would enable you to make a brilliant fortune in England? By my mentioning money I meant to say, that I would pay the expenses of my sister's journey to England, because I have always said, if my sister was dismissed by the princess, I would pay the expenses of her journey to England.

Was it necessary also, upon that statement, to add, "you see that the princess is surrounded by spies," for the purpose of making your sister understand it? I do not know whether it was necessary, but I did it expressly that my sister might understand me.

What your sister would understand from the statement that the pretext for being sent for as a governess was false, and that the princess was surrounded by spies, was simply, that you would pay the expenses of her journey to England? And also to tell her that I should have the means of getting her a place in England, because, before I quitted the princess, my sister told me that she did not wish to quit, because, if she did, she should not know where to get a place.

You have stated that you wrote to your sister in this mysterious manner because you were afraid your letter would be intercepted? Yes.

Of course you avoided stating in that letter that which would expose any person? I would not positively say to my sister what I meant, because I was afraid she would be discharged after the letter would have been seen.

But in a letter which you were afraid of being intercepted, would you write any thing which you thought would expose any person? I did not think at that moment that it might do harm, or expose any person.

You were not afraid of the name of that gentleman being seen by the persons who might intercept that letter, which you wished not to be mentioned to-day? I had no objection, because I knew that the gentleman would not come to the knowledge of it; but I knew that what was read to-day would be in the public papers; and now that this gentleman is married, I should not wish him to know what has passed; I should not wish his wife to know it.

You are understood to state, that you were anxious your sister should still continue in the princess's service? I wished her to remain, but I was afraid she might be discharged, because I had been told so.

But you were anxious she should still remain in her service? Yes, at that time.

Notwithstanding what you had seen at the balls, at the Barona? It was for particular reasons, because my sister could not remain at her home.

Marquis of *Buckingham*.—Had you any reason to believe that the princess was in fact surrounded by spies? I never saw any spies in the house, that I knew as such.

Did any one in effect write to you to invite

you to come to England, by which you might make a brilliant fortune in a short time? Somebody wrote to me to Switzerland, that I might come over to England, and that I should get a good place, that I should be comfortably placed with letters of recommendation.

Did any person write to tell you, that if you came over to England on this business, you might make a brilliant fortune in a short time? That is not what was written to me, but it was an allusion I made, intended for my sister.

Then it is not true that any such offer was made to you? Such an offer was not made to me, but I did not think I did any harm in writing so, because it was an allusion for my sister, and that I did not think it would do harm to any body.

In point of fact was such an offer made; yes or no? I tell you no such offer was made to me, not exactly as I said an offer.

Was any offer to that effect made to you? As I said before, it was written to me that if I came to England I should be placed advantageously as a governess.

With reference to what passed at Scharnitz—when you were directed to leave the princess's room, and you left her in bed, was the princess then dressed in the riding habit you have described? I had seen the princess dressed in that habit during the day when she was in bed, but I do not recollect whether she had it on in the night.

Had you assisted to take off any part of the clothes of the princess during that night? I do not at all recollect that I assisted her.

With reference to what passed on board the polacre, when you descended into the room where the princess was supposed to have taken her bath, did you perceive that in fact the princess had bathed, from wet linen lying about, or any other symptom? I saw a bath, and the princess told me that she had bathed, and advised me to bathe also, because it was hot, and that it would do me good.

Did you perceive wet linen lying about, as if the princess had been in the bath? I do not recollect seeing any linen.

Did you find the princess in the same cabin in which the bath was when you went down? The princess was in her own cabin where her bed was.

But not where the bath was? As far as I can recollect, but I cannot be sure positively, the bath was in the dining-cabin.

Earl of *Derby*.—You have stated, that the reason of writing in that mysterious manner, which has been alluded to, was for fear of these letters being intercepted? Yes.

Had you previously given any clue to your sister, or was there any understanding between you and your sister, in what manner she was to understand this mysterious manner of writing, without other persons being acquainted with it? I do not recollect whether I had said any thing to my sister concerning that; but the morning that I set out, we concerted together that we should put marks in our letters that nobody was to understand but ourselves; she told me that she would begin in the first letter that she would write to me, that she would use some mark at the foot of the letter, but I do not recollect exactly what it was.

Earl of *Liverpool*.—You said that you think the bath was in the dining-room, was there not more than one occasion on which the princess used the bath? The princess bathed on more than one occasion.

You recollect more than one occasion? I recollect only two.

On one of these occasions was the bath in the cabin? I know that I bathed in the cabin, but I do not know whether her royal highness bathed in the same cabin; I saw that the bath was in that cabin.

Lord *Ellenborough*.—By whom did you suppose that the letter you wrote to your sister would be first read? I believed that my letter might be read by Mr. Pergami or by the princess.

Did you suppose that either Pergami or the princess were acquainted with the names of the supposed persons mentioned in that letter? I believed that the princess had seen monsieur ——, but I did not know whether she knew his name.

Had any other circumstance occurred, except that which you have stated relative to the letter at Pesaro, to induce you to believe that the letters you wrote to your sister would be intercepted? Because my sister had written to my mother a letter which had been put into the post at Pesaro; it had been taken up at the post office, and then put back again into the post, and something had been altered in the letter, and my sister said that she had no news from us.

Did that happen while you were at Pesaro? Whilst I was in Switzerland.

You state that at Catania you saw the princess come out of the room in which Pergami had slept with a pillow under her arm, was your sister present at the time? As far as I can recollect my sister was in the room.

How long had you been in that room without leaving it? I had not been out at all that morning.

How long had you been awake? About two hours.

You state that at general Pino's you saw Pergami go into the princess's bed-room, and that you do not know how long he remained there, for that you fell asleep; as nearly as you can state, what time elapsed between your seeing Pergami and your falling asleep? As far as I can recollect, it was nearly a quarter of an hour, or half an hour, before I fell asleep.

At Naples, when you saw Pergami come in his shirt towards the princess's room, how far were you then from the door by which you escaped? Nearly four or five paces.

How far was Pergami at the time from that door when you first saw him? I cannot say precisely, but I believe it was about ten or eleven paces.

Could Pergami have entered the princess's room otherwise than by the door by which you escaped? He had not need to pass through that door, he might have gone directly to the room of the princess.

On board the Polacre, when on the voyage from Jaffa, when the princess was sleeping in the tent on the deck, did you ever see Pergami's bed made in the dining-room, as you passed through that room every other night in your way to the princess's room in which you slept? I have seen a bed in the cabin, but I cannot say it was Mr. Pergami's, because I have seen other persons sleep there.

Did you ever see Pergami sleep there? Not after Jaffa.

The following extract was read from the preceding part of the evidence.

"Had you previously given any clue to your sister, or was there any understanding between you and your sister in what manner she was to understand this mysterious manner of writing, without other persons being acquainted with it? I do not recollect whether I had said any thing to my sister concerning that; but the morning I set out, we concerted together that we should put marks in such letters that nobody was to understand but our ourselves; she told me that she would begin in the first letter that she would write to me, that she would use some mark at the foot of the letter; I do not recollect exactly what it was."

Marquis of *Lansdown.*—Did you ever receive a letter from your sister containing the mark which you had agreed should be communicated through your future correspondence? I have only received a letter from my sister, but I do not recollect whether there was any such mark—the letter which I mentioned before, which had been taken up at the post.

If, then, you did not receive from your sister the mark that it was agreed upon between you should be annexed to her first letter, why did you conceive that your sister would be enabled to comprehend the double meaning contained in the letter which has been shown to you, without that mark which had been agreed upon between you being annexed to it? We had not agreed upon that mark, as far as I can recollect, on this account; but my sister told me, that when she would write to me, she would put a mark at the end of her letter.

If you then did not receive from your sister the mark that it was agreed upon between you should be annexed to her first letter, why did you conceive that your sister would be enabled to comprehend the double meaning contained in the letter which has been shown to you, without that mark which had been agreed upon between you being annexed to it? I believe my sister would understand me, but I do not recollect for what reason I believed so; it is so long since this occurred, that it is impossible I can exactly recollect.

You are understood to have stated, that you had received a letter, inviting you to go to England, where you might have an opportunity of being placed in some situation as a governess, that it would be advantageous; was that letter anonymous or signed? That letter was not signed.

In what language was it? As far as I recollect it was in French.

By whom was that letter delivered to you? I have already said that it was delivered to me at Collombier, but I do not recollect by whom.

Can you state whether it was delivered by the post, or by an individual? I do not recollect by whom it was delivered.

State yes or no, whether it was by the post or by an individual? I do not recollect it.

Do you recollect from whence it was dated? I do not recollct it.

In point of fact, did you know, or had you reason to think you knew, by whom that letter was addressed to you? At this moment I cannot say whether I had an idea at that moment from whom it came. It is two years since this occurred; I never thought of it afterwards; and I cannot recollect.

Did you return any answer to it? I do not recollect making any answer to it; I do not recollect that I made any answer to it.

Can you state whether there was any thing contained in that letter besides the fact you have stated, of the proposal to you to go to England as a governess? I do not recollect whether there was any thing else.

Have you the letter now in your possession? I have it not here, and I do not believe I have it at Collombier, because when I quitted Collombier I burned my letters; not all my letters.

Earl of *Lauderdale.*—Was it the information contained in that anonymous letter which induced you to think of coming to England as a governess? I had already had thoughts of it before.

Have you made any endeavours to get a place as governess since you came to England? No.

Was the letter which your sister wrote, which was opened and then put into the post again, directed to you or to your mother? I cannot positively say, but as far as I recollect it was addressed to my mother.

Is that the letter which you said was the only one received from your sister, which your mother received at the time you were at Milan? I heard that it was the only letter which had been received before I wrote this one [the letter of the 8th of February 1818.]

Was it received when you were at Milan? No, before; after this one was written my mother received two or three letters from my sister.

Which letter did your mother receive at the time you were at Milan? That was another letter.

Can you say, in all, how many letters your mother received from your sister after you quitted Pesaro, before you left Switzerland? I cannot say exactly how many she received, but I know she did not receive many.

Did she receive five? I do not know.

Four? I cannot say positively how many she received, it is impossible.

Do you recollect that in part of the voyage up the Levant Pergami slept in the eating-room, and the princess in the room adjoining? Yes.

You have said that upon two occasions, when they were both in bed, Pergami in the dining-room and the princess in her cabin, you saw them speaking together have you not? Yes.

What did they say? I cannot recollect what they said, but they spoke together.

Do you remember saying, that at Utica you went to the threshold of the door of her royal highness when she was in bed, and Pergami in the room, and that she asked you for something? Yes.

What did she ask you for? It is impossible for me to recollect at present what she asked me for.

You perfectly well recollect that she did ask for something? She asked me for something, I recollect.

And you do not recollect what? I do not recollect what it was.

Do you remember saying, that at Jerusalem Pergami came into the room, and threw himself on the bed, in a jesting way? Yes.

Was the princess there? Yes.

What did Pergami say or do upon that occasion? I only saw that he laid himself down on the bed laughing.

Then you saw nothing but that Pergami was on the bed and was laughing? Yes.

Your attention is directed to the night when you saw Pergami with a candle in his hand; how many paces was the door of the princess's room from the door at which you made your escape? I cannot say positively, I do not recollect, but it may have been three, four, or five paces.

Lord *Falmouth*.—If there had been any wet linen in the bath-room on board the polacre, which the princess had used, would it have been your business to have taken it away? Either my business or my sister's.

When you went into the bath-room did you, in point of fact, observe any marks whatever of the princess having used the bath? I only recollect seeing the bath.

Were you sincere in the praises of the princess when you wrote that letter which has been read; do you mean that the whole letter was a double entendre, or that only certain passages of that letter were a double entendre? There were only some passages of the letter, because when I wrote that letter, I was extremely attached to her royal highness, and I was willing to speak of the extreme kindness with which she had treated me.

Earl of *Lauderdale*.—Were you sincere in those parts of your letter which speak the praises of the princess? In speaking of the personal qualities, how she was good and patient, I was sincere.

Is there any praise bestowed on the princess in this letter in which you were not sincere? I do not recollect whether all of them were sincere, but I recollect that the greater part were sincere.

Earl of *Darnley*.—You have said more than once, that at the time you wrote that letter you were much attached to her royal highness, when did that attachment cease? This attachment ceased when I heard that her royal highness had said several things of me in the house of her royal highness; that several things had been said of me in the house of her royal highness.

Was it in consequence of that attachment having ceased in the manner you have described, that you have been induced to come into this House to give your evidence? No.

What is your inducement to come? I was asked to come to declare the truth.

By whom? By Mr. Sacchi, on the part of the commission.

You have spoken to the state of the outer covering of the large bed at Naples, do you recollect the colour of that covering? Yes.

What was the colour? White.

You are quite sure? White was the bed-cover.

The outer cover, not the sheets? Yes, the outer cover.

Earl of *Morton*.—On board the polacre, on the return from Jaffa, there was a communication between the tent and the dining-room, was that communication open or closed during the night? The communication descended into the dining-cabin.

Was it open or closed during the night? It was open during the night, from the upper deck.

In speaking of the bath which was prepared for the princess on board the Polacre, you mentioned not having seen any linen; state whether that bath was fresh water, or salt water? I do not know whether it was fresh or salt water: I do not recollect.

Do you happen to know whether, in that part of the world, it is usual for persons to use linen on coming out of salt water? I do not know whether it is usual to make use of linen in coming out of a salt water bath.

Was the communication you have spoken of, between the tent on deck and the cabin below, always open, or only occasionally open? I cannot recollect whether it was open every night.

Did you ever see it shut at night? I do not recollect seeing it closed at night.

Ordered, that the further consideration and second reading of the said bill be adjourned to Monday next.

HOUSE OF LORDS.

Monday, September 4.

The order of the day being read for the further consideration and second reading of the Bill, intituled "An Act to deprive her majesty, &c.," the Counsel were called in.

Then *George Pinario* and *Edgar Garston* were called in, and having been sworn, were examined as follows:

Have you compared that with the original which you read on Saturday [A paper being shown to the witnesses]? [By each.] We have.

Have you compared it together? We have.

Is this a correct copy? It is.

Have you compared this with the original letter to the princess of Wales [Another paper being shown to the witnesses]? We have.

Have you agreed in the translations of those two letters [Two papers being shown to the witnesses]? We have.

The copies of the letters, and the translations of the same, were delivered in, and are as follow:

Collombier, le 8 *Fevrier* 1818.

Chère et bonne Mariette;

Quoique tu n'ayes pas dit quatre mots pour moi dans ta derniere lettre, je t'aime pourtant trop pour n'pas te le pardonner, et c'est avec un vrai plaisir que je te reponds. Je suis enchantée, ma bonne sœur, que tu sois toujours parfaitement heureuse; quoique je ne doive en avoir aucune doute, connoisant si bien l'extreme douceur de son altesse royale, et de tous ceux avec qui tú peux avoir à faire. Tachez de te conserver toujours cette precieuse bienveillance, en continuant toujours le même genre de vie qui te l'a acquise. Que l'experience ne te soit pas inutile! aye toujours devant les yeux les chagrins qui naissent de l'etouderie et de l'inconsequence; tu en as vu dernierement des preuves assez fortes.

Tu desires, sans doute, bien de savoir quel est ma situation dans notre petit pays. Je t'assure, ma chère, que j'y ai été reçue d'une manière dont tu ne te ferois jamais d'idée. J'ai été fetée, recherchée, accueillie partout avec le plus grand empressement à Lausanne, à Morger, et à Cassonay. J'ai passé un mois entier dans cette dernier ville, où l'on m'a procuré tous les amusemens possibles. Tu sais combien je desirois d'aller en traineau. Eh, bien! tous les jours nous y faisions des parties; au nouvel an nous avons eu un charmant bal masqué. Dans la semaine qui a suivi, deux autres parés, les plus jolis qu'on aye jamais vu dans cette ville, et une infinité d'autres soirées dansantes données par ma connoisance pour moi; enfin, tous les jours c'était de nouvelles fêtes et de nouvelles invitations. Conçois-tu qu'au milieu de ces nombreux plaisirs j'étois triste et silencieuse; chacun me plaisantoit sur mon indifférence; moi qui étoit, disoit-on, si gaie avant mon départ, je n'étois pas récónnoissable; et cependant je ne pouvois malgré mes efforts me surmonter. Ne devines-tu, ma bonne, quel étoit le sujet de ma tristesse profonde. Helas! ce n'étoit que le regret et la douleur d'avoir quitté S. A. R. et de savoir qu'elle a méconnu mon caractere, et qu'elle m'a taxée d'ingratitude. Oh Dieu! je payerois la moitie de mon sang, qu'elle pût lire dans mon cœur; elle pourroit se convaincre du respect infini, de l'attachement sans bornes, et de la parfaite reconnois-

Collumbier 8th Feb. 1818.

Dear and good Mariette,

Although you have not said four words in your last letter, yet I love you too well not to pardon you for it, and it is with real pleasure that I reply to you. I am enchanted, my good sister, that you are perfectly happy; but I ought not to doubt it, so well as I know the extreme goodness of her royal highness, and of all those with whom you may have any thing to do. Endeavour to preserve always such valuable kindness, by continuing the same way of life which has procured it for you. May experience not be useless to you! and keep always before your eyes the trouble which arises from folly and inconsistency; you have lately had sufficient proofs of that.

You will no doubt be very desirous of knowing what is my situation in our little country. I assure you, my dear, I have been received in such a manner as you could have no idea of; I have been fetée*, sought after, and received every where with the greatest cordiality, at Lausanne, at Morger, at Cassonay. I passed a whole month at the last town, where every possible amusement was procured for me. You know how fond I am of going on a sledge †. Well! every day we made a party for it: at the beginning of the new year we had a delightful masked ball; the following week two more dress balls, the best that have been in this town; and a number of other evening dancing parties, given by my friends on account of me; in short, every day brought some new parties and new invitations. Can you conceive, that in the midst of all these numberless pleasures I was sad and silent; every one quizzed me on my indifference; I who, said they, used to be so gay before my departure, I was not to be known again; but spite of all my endeavours I could not get the better of myself. Can you not, my dear, divine the cause of all my deep sadness? Alas! it was only the regret and grief at having quitted her royal highness, and at knowing that she had mistaken my character, and taxed me with ingratitude. Oh God!

* Fetée, received with parties.
† Aller en traineau.

sance que je conserverai toute ma vie pour cette auguste personne. Ma Mariette, j'aurois bien desiré écrire à Mr. le Comte, pour le remercier du qu'il a eu pour moi; mais je n'ose, je crains de l'importuner; dis lui que le peu de lignes qu'il a eu la complaisance de m'écrire m'ont en effet donné un peu de tranquillité, puisqu'il me fait espérer un pardon. Je tremblois que S. A. R. ne fût encore fâchée du tour que j'avois donné à mon voyage; jugez de ma joie en apprenant qu'elle n'en est nullement en colère, qu'au contraire elle m'en donne la permission: en effet, ce pretexte m'été fort utile; car tu connois assez le monde pour soupçonner que j'ai été assaillie de questions, particulièrement par les grands; car je ne suis pas si vaine de croire q'il m'ont tant recherchée pour mes beaux yeux, et qu'il n'y avoit pas dans leur empressement un peu de curiosité. Ah, pourquoi l'esprit de S. A. R. n'etoit-il point à coté de moi! elle auroit eu des preuves si je suis une ingrate. Combien de fois dans un cercle nombreux, lorsqu' avec tout l'enthousiasme, qui m'animoit, je faisois l'enumeration de ses grandes qualités, de ses rares talens, de sa douceur, sa patience, sa charité; enfin, de toutes les perfections qu'elle possède à un si haut degré. Combien de fois, dis-je, n'ai-je pas vu les cœurs s'attendrir, et s'écrier, que le monde est injuste de causer tant de tourmens à une personne qui les merite si peu, et qui est si digne d'être heureuse!

Mariette, tu ne saurois croire le bruit qu'a fait mon petit Journal; on se l'est, pour ainsi dire, arraché; tout le monde l'a lu. Madame Gaulisa prie de lui permettre de la porter à Lausanne; tous les Anglais qui y étoient dans ce moment ont voulu le voir. J'en ai été enchantée, car tu sais que j'y parlois beaucoup de la meilleure et de la plus aimable princesse du monde. J'y racontois très en detail tous les traits de sensibilité, de generosité, qu'elle avoit donné; la manière dont elle avoit été reçue, applaudie, cherie, dans tous les lieux que nous avions parcourus. Tu sais que lorsqu'il s'agit de parler de cette auguste princesse je ne taris point, par conséquent mon Journal est encore embelli et se sent de l'effusion de mon cœur; mon désir le plus grand ayant toujours été, pour que S. A. R. fût reconnue pour ce qu'elle est vraiment, et que pleine justice lui fût rendue. Je t'assure que quoiqu'eloignée, je n'en ai pas moins ce desir, et que j'y travaillerai toujours avec zèle, et autant que ma faible capacité pourra me le permettre. Comme tu juges bien, ce ne sera point pour m'en faire un merite, puisqu'elle ignorera toujours, et qu'elle me soupçonne même d'ingratitude, mais ce sera uniquement pour contenter mon cœur, qui trouveroit une douce satisfaction dans cette charmante reussite.

I would surrender half my life, could she but read my heart; she could then be convinced of the infinite respect, the unlimited attachment, and perfect gratitude, I shall always entertain for her august person. I should much have wished, my dear Mariette, to have written to the count, to thank him for the kindness he has shown me, but I am afraid to trouble him; tell him that the few lines which he has had the goodness to write to me, have in fact afforded me a little tranquillity, since they made me hope for pardon. I was afraid her royal highness would be still displeased at the turn I had given to my journey; judge then of my happiness, when I learnt that she was not at all angry at it, but on the contrary gives me leave for it: in truth, this pretence has been very useful to me; for you are sufficiently acquainted with the world to suspect that I have been assailed with questions, particularly by great folks; for I am not vain enough to think that I have been sought after so much only on account of my fine eyes, and that a little curiosity had no part in their eagerness to see me. Ah! why was not the spirit of her royal highness at my side? She would then have found whether I be ungrateful. How often in a numerous circle, whilst with all the enthusiasm which animated me, I enumerated her great qualities, her rare talents, her mildness, her patience, her charity, in short, all the perfections which she possesses in so eminent a degree; how often, I say, have I not seen my hearers affected, and heard them exclaim, how unjust is the world to cause so much unhappiness to one who deserves it so little, and who is so worthy of being happy!

You cannot think, Mariette, what a noise my little Journal has made. It has been, if I may use the expression, snatched at; every one has read it. Madame Gaulisa begged me to let her carry it to Lausanne; all the English who were there at that time wished to see it; I have been delighted at it, for you know I spoke in it a great deal of the best and most amiable princess in the world. I related much in detail all the traits of sensibility and of generosity which she had shown—the manner in which she had been received, applauded, cherished, in all the places we had visited. You know, that when this august princess is my subject I am inexhaustible, consequently my Journal is embellished with and breathes the effusion of my heart; my greatest desire having always been, that the princess should appear to be what she really is, and that full justice should be rendered to her. I assure you, that although distant, it is not less my desire, and that I shall always endeavour with zeal that such may be the case, and as far as my poor capacity will allow. As you may well judge, it is not to make a merit of it, since she will always be ignorant of it, and even suspects me of ingratitude, but it will only be to content my heart, which would find a sweet satisfaction in this charming success.

Mais voilà t-il pas que j'oubliois de te confier une chose qui te surprendra autant que je l'ai été moi-même. Le 24 du mois passé, etant à goûter chez ta tante Clerc, on vint me dire qu'un inconnu demandoit à me remettre une lettre, ne la voulant absolument pas confier à personne. Je descendis, et le fis monter dans ma chambre. Juge de mon etonnement après l'avoir decacheté; l'on m'y proposoit de partir pour Londres, sous le faux pretexte d'être gouvernante. L'on m'y promettoit une haute protection, et une fortune fort brillante en peu de tems. Elle étoit sans signature; pour me garantir de la verité, l'on m'offroit de tirer chez le banquier autant d'argent que j'en voudrois. Conçois-tu rien de si singulier! Quelques traits echappés à la plume de l'ecriveur, m'ont fait aisément decouvrir la fourberie, et je n'ai pas hesité de donner ma reponse dans des termes qui auront bien fait comprendre que je n'étoit tout à fait dupe. Je n'ai malgré tous mes efforts tirer aucun eclaircissement du porteur; il agissoit avec le plus grand mystère. Tu vois, ma chère, avec quelle promptitude les ennemis de notre genereuse bienfactrice agissent toujours. Il faut qu'il y ait toujours des espions auprès d'elle, car pas plutôt j'ai été partie de Pesaro, qu'on l'a su, avec toutes les circonstances, dans la capitale de l'Europe. L'on s'imaginoit trouver en moi une personne vindicative, et fort ambitieuse; mais, Dieu merci, je suis exempt de ces deux défauts; et l'argent acquis au depend de son répos et de son devoir, ne me tentera jamais lors même que je serois dans la dernière extremité.

Le bon Dieu n'abandonne personne, encore moins ceux qui font ce que lui est agreeable. *Bonne Renommée vaut mieux que ceinture dorée.*

Puisque, ma chere sœur, je suis sur le tapis d'argent, il faut pourtant que je te donne un avis. Economise autant que tu le pourras, retranche toutes les choses qui te seront superflues; si tu savois le regret que j'ai de ne pas en avoir fait autant! il me semble bien que je n'ai fait aucune dépense extravagante, mais j'aurois pu me priver de bien de choses qui m'etoient presque inutiles. Tu sais que le monde est ici comme partout ailleurs; on s'imagine que la princesse de Galles jette tout son argent par les fenêtres, et on me croit revenue avec une fortune considérable; par un espêce d'amour propre, et pour vanter encore plus sa generosité, je ne cherche à detromper personne: par consequent quoique j'ai grand besoin d'argent, je n'en ai encore rien osé demander à mon tuteur: je sais me moderer, et je ne fais aucune depense. J'ai bien le tems de reflechir et de penser que si j'avois toujours agi de même, je ne me trouverois point dans la situation où je suis; l'on doit s'economiser autant que possible pour lorsqu'on ne peut plus gagner. Profites de la leçon que je viens de te donner, et assure toi qu'elle te sera très

But I had almost forgotten to confide to you a thing which will surprise you as much as it has me. The 24th of last month I was taking some refreshment at my aunt Clara's, when I was informed an unknown person desired to deliver me a letter, and that he would trust it to no one else. I went down stairs, and desired him to come up into my room. Judge of my astonishment when I broke the seal; a proposal was made to me to set off for London, under the false pretence of being a governess. I was promised a high protection, and a most brilliant fortune in a short time. The letter was without signature; but, to assure me of the truth of it, I was informed I might draw at the banker's for as much money as I wished. Can you conceive any thing so singular? Some lines, escaped from the pen of the writer, enabled me easily to discover the cheat, and I did not hesitate to reply in such terms as must have convinced him I was not quite a dupe. Notwithstanding all my efforts, I could draw no eclaircissement from the bearer; he acted with the greatest mystery. You see, my dear, with what promptitude the enemies of our generous benefactress always act. There must always be spies about her, for no sooner had I left Pesaro then it was known, with all its circumstances, in the capital of Europe. They thought to find in me a person revengeful and very ambitious; but, thank God, I am exempt from both those failings; and money acquired at the expense of repose and duty, will never tempt me, though I should be at the last extremity.

The Almighty abandons no one, much less those who do that which is agreeable to him. *A good reputation is better than a golden girdle.*

Since I have introduced the subject of money, my dear sister, I must give you some advice. Economise as much as possible, retrench every superfluity; did you but know the regret I feel in not having done so! I do not think I ever was guilty of extravagance, but I have not deprived myself of many things which were almost useless to me. You know that every one here, as elsewhere, fancies the princess of Wales throws her money out of the window, and I am supposed to have returned with a considerable fortune; from a species of self-love, and to extol still more her generosity, I do not try to undeceive any one; consequently, though I have great need of money, I have not yet dared to ask my guardian for any: I know how to be moderate, and run into no expense. I have time to reflect, and to think that if I had always acted in the same way, I should not be in the situation in which I am; every one should economise as much as possible against the time when one can no longer gain any thing. Profit by the lesson I have just given you, and be assured it will be salutary to you, for I speak from experience. You will know Mr. Le

salutaire, car je te parle par experience. Tu sairas que M. le Notte n'a point remis le paquet. Je lui ai écrit à Milan, et à Paris; j'attends sa reponse un de ces jours. S'il devoit être perdu, ce seroit fort desagreable, tant que ce drap coûte cher: si j'avois su, on ne l'auroit point acheté, ma mére ayant un bon spencer auroit fort bien pu s'en passer. Je regrette aussi bien le velours, dont je me suis bien privée pour mon chapeau, en le faisant beaucoup plus petit; d'ailleurs nous ne l'avons pas eu pour rien non plus, et les trois Louis valent bien aussi la peine de les regretter, sans compter tous les autres brimborions; tout cela ne vient pas en jouant de la flûte. Un sous ici, et l'autre là, forment bientôt un livre, et il faut vingt quatre pour un Napoleon; vois-tu si je ne suis pas devenue savante dans le calcul. Aussi je te reponds que M. la Notte aura bien la bonté de tout payer, s'il a perdu quelque chose; je ne lui ferai aucune grâce, et je lui ai écrit d'un ton qui marque assez que je ne suis pas très satisfaite de sa negligence.

Mais, ma chere Mariette, j'en apperçois que j'ai presque fini ma lettre sans te parler de nos chers parens. Notre bonne mère est passablement bien, son oppression et ses maux d'estomac la tourmentent encore quelquefois, mais ce n'est rien en comparaison de ce qu'elle a souffert cet été. Ton pere est fort bien. Henriette est toujours charmante; je lui donne tous les jours de leçons d'ecriture et de lecture; elle coud tres bien, et repasse de même; elle m'a deja repassé plusieurs fraises et quelques robes, dont j'ai été bien contente. Son desir de voyager est toujours le même; fais, je te prie, tout ce que tu pourras pour la placer; je suis convaincue qu'elle ne te donnera aucun chagrin ni aucun mécontentement; elle a encore changé à son avantage; elle est gaie et toujours de bonne humeur, douce, complaisante, enfin, d'un caractère à se faire aimer partout où elle ira, car elle a un cœur excellent, et elle sait se contenter de tout ce qui se presente. Marguerite est tout à fait aimable, d'une jolie figure, et d'une telle gaieté qu'on seroit à demi mort qu'elle vous feroit rire. Louise est aussi bien * jentille. Je t'assure, ma chere Mariette, qu'elles ont toutes fort changé à leur avantage, et je suis fort contente d'elles.

Je suis depuis le mois de Janvier à Collombier, dans ma chambre favorite, où l'on a fait quelque réparations; par exemple, une fort bonne cheminée, et un petit cabinet, où je couche. Je vais fort souvent faire des petites courses dans nos environs, et je reçois fort souvent des visites, ce que me donne un peu de distraction. Il me semble que je t'entends me dire—et que pense-tu, ma chere Louise, de faire? Ne te maries-tu point? Que fait Monsr. ———? Mot pour mot, je te dirai, que je me sens toujours plus de repugnance pour le mariage; que Monsr.

Notte has not delivered the parcel; I wrote to him at Milan, and at Paris; I expect his answer one of these days. If it should be lost, it would be very disagreeable, as the cloth costs a great deal: if I had known, it should not have been purchased, as my mother has a good spencer and might very well have done without it. I regret also the velvet very much, of which I have shortened myself for my hat, in making it much smaller; besides we did not get that either for nothing, and the three louis are well worth lamenting, without reckoning the other baubles; all that does not come by whistling for it; a sous here and a sous there soon make a livre, and twenty-four livres make a Napoleon; you see I am become an adept in arithmetic. I will answer for it, however, that Mr. Le Notte * shall have the goodness to make all good if he have lost any thing. I shall show him no favour, and have written to him in such a manner as sufficiently shows I am not very well satisfied with his negligence.

But, my dear Mariette, I perceive I have almost finished my letter without speaking of our dear relations: our good mother is tolerably well, though her asthma and pains in her bowels torment her sometimes, but nothing compared to what she has suffered this summer. Your father is very well. Henrietta is always charming; I give her every day lessons in writing and reading; she sews very well, and irons as well; she has already ironed several frills for me, and some gowns, with which I am very well satisfied. Her desire of travelling is the same; pray try to get her a situation; I am convinced she will give you no cause to regret it. She is much altered for the better; she is gay, and always in good humour; mild, obliging, in short, of a character to make herself beloved wherever she goes, for she has an excellent heart, and knows how to be contented in all situations. Margaret is entirely amiable, of a pretty figure, and so lively, that she makes one half dead with laughing: Louisa is also very genteel. I assure you, dear Mariette, they are all changed very much for the better, and I am quite contented with them.

I have been, since the month of January, in my favourite chamber at Collombier, where some repairs have been done; for example, a very good chimney, and a small cabinet, wherein I sleep. I often make little excursions in our environs, and frequently receive visits, which afford me some amusement. I think I hear you say, well dear Louisa, what do you mean to do? Won't you marry? What does Mons. ——— do? I will tell you, word for word; I every day feel more and more repugnance to marriage. Mr. ——— has done all in his power to induce

* Sic.

——— a fait tout son possible pour me faire consentir à accepter un cœur que dit-il il me garde depuis sept ans. N'est-ce pas une constance heroique, et fort peu digne du siècle où nous vivons. Cependant, je n'en ai point été eblouie, et quoiqu'il soit riche, charmant, et aimable, je n'ai point voulu renier le rufus que je lui fis il y a quatre ans. Si cela t'amuse, je te dirai que j'ai encore plusieurs autres courtisans, non moins avantageux que lui. Je suis peut-être bien sotte de les refuser, car ils valent infiniment mieux que moi; peut-être m'en repentirai-je quelque jour, car tu sais le proverbe "qui refuse muse;" mais je ne saurois qu'y faire; les derniers evènemens que me sont arrivés m'ont fait naître une espéce d'antipathie pour tous les hommes. Je ne veux avoir de liaison, ni de communication avec aucun. Je n'aime et ne cheris que la douce liberté. et je veux la conserver aussi longtems que je pourrai. Chere Mariette, je t'en conjure, imite mon exemple, ne vas pas au moins songer à te marier; ma mère et moi te le defendent, aussi longtems que S. A. R. voudra bien te garder auprès d'elle. Tu ne peux avoir de bonheur plus parfait, c'est impossible; garde toi bien de former aucune liaison ni relation avec personne; tu es trop jeune pour cela; reste libre, et je t'assure que tu en seras mille fois plus heureuse. Je ne te recommande point la sagesse, je te connois trop bien pour me méfier de toi, et pour que je te soupçonne d'en manquer; car quoiqu'on aye pu dire de moi, je serois morte plutôt que de l'abandonner un instant, et de me detourner du vrai chemin de la vertu; c'est le plus precieux bien que nous possedions; j'ai su que quelques personnes ont douté de ma conduite; mais n'ai-je pas les temoins de Dieu et de ma conscience. Ne suffisent-ils pas à ma tranquilité? Personne, du moins ne pourra me les enlever.—Non, je n'ai rien à me reprocher de ce coté-la, et tu le sais aussi bien que moi, par consequent je puis te donner des avis avec la certitude que tu les suivras, d'autant plus que ce sont aussi ceux de notre mère.

Chere sœur, si tu l'oses mets moi aux pieds de S. A. R. en la suppliant d'agréer mes très humbles respects. Ne manque pas, je te supplie, lorsqu'elle te parlera de moi, de tâcher de la convaincre que mon repentir de lui avoir deplû est toujours le même; que je la conjure de me rendre sa bienveillance. Sache moi à dire, si S. A. R. est toujours si outrée contre moi, et s'il n'y a pas d'apparence d'un entier pardon; mais dis moi toujours la verité. Tâche aussi, je te prie, Mariette, de persuader à S. A. R. que je lui suis, et serai toujours si enticrement devouée, qu'aucun sacrifice ne me coutera cher pour elle, et qu'elle pourroit même disposer de ma vie, qui lui sera en tous tems consacrée. Dis aussi à monsieur le baron, que je suis très sensible a son souvenir, et que je le supplie d'agreéer l'assurance de ma plus parfaite

me to accept a heart which he says he has preserved for me these seven years. What heroical constancy, and little worthy of the age in which we live. I have not, however, been dazzled by it, and although he be rich, charming, and amiable, I would not retract the refusal I gave him four years ago. If this amuse you, I will tell you I have several other lovers, not less desirable than he; I am very foolish perhaps to refuse them, for they are infinitely better than I am; perhaps I may one day repent it. You know the proverb "qui refuse muse," (he who will not, &c.) but I cannot do otherwise; recent events have created in me a sort of antipathy to all men. I can have no ties, no communications with any of them. I love and cherish sweet liberty alone, and wish to preserve it as long as I can. Dear Mariette, I conjure you imitate my example, never think of marrying. My mother and I forbid it as long as her royal highness shall wish to keep you in her service. You can have no greater happiness, it is impossible. Beware of forming any attachment or tie with any one; you are too young for that; remain free; be assured you will be a thousand times more happy. I do not recommend prudence to you, because I know you too well to distrust you, and to suspect you do not possess it; for whatever may have been said of me, I would have died rather than abandon it for an instant, and deviate from the strict path of virtue; the most precious good we possess; yet I have known some persons have suspected my conduct; but I have God and my own conscience for witnesses. Are they not sufficient for my peace? at least no one can deprive me of them.—No, I have nothing to reproach myself with on that head, and you know it as well as myself, therefore I can give you advice, with the assurance that you will follow it, especially as it is also that of our mother.

Dear sister, if you dare, place me at the feet of her royal highness beseeching her to accept my humble respects. Do not fail, I entreat you, when she speaks to you of me, to endeavour to convince her that my repentance for having displeased her is still the same; that I conjure her to restore me to her favour. Tell me if her royal highness is still so very angry with me, and if there is not any appearance of a full pardon; but tell me always the truth. Try also, I pray you, Mariette, to persuade her royal highness that I am and always shall be so entirely devoted to her, that no sacrifice I could make for her would appear too great, and that she might even dispose of my life, which shall for ever be consecrated to her. Tell the baron also, that I am very sensible of his remembrance, and beg him to accept the

reconnoissance. Embrasse, pour moi, la charmante Victorine; reitere, encore, mes remercimens a Monsr. le Compte, et assure le que je n'oublierai jamais ses bontés dernières. Rappelle moi au souvenir de Madme. la Comtesse, de Madme. Livia, et de Monsr. William, en les priant de reçevoir l'assurance de mes sinceres amitiés.

Chere Mariette, si je voulois te dire tous ceux qui t'envoyent saluer, il me faudroit au moins deux autres pages, car chacun s'interesse beaucoup à toi, et l'on ne cesse de faire des vœux pour la continuation de ton bonheur. Tu t'imagine pourtant que les plus sincères se font chez nous.

Tu dirais à Monsr. Hieronimus que John est fort bien, et que Monsr. S. est tres content de lui sur tous les rapports; l'on a point payé la pension; dis à Monsr. Hieronimus, que je le prie d'envoyer d'abord, à la reception de cette lettre, un ordre à Monsr. ———— pour les six Mois de sa pension, et de s'addresser à moi; mais qu'il ne tarde pas, car j'ai besoin d'argent. Il me semble que tu ne ferais pas mal en même tems d'envoyer les deux Napoleons, et pour finir 25, si tu le peux. C'est moi qui t'envoye la robe à la place des dentilles; je pense que tu l'aurois garnie de mousseline. Fais mes complimens a Monsr. Hier. et dis lui que la premiere fois que j'écrirai, je lui ferai plus de details de sons fils, pareceque j'éspere avoir plus de place. J'aimerois bien savoir de quelle maniere on fait l'encre avec cette poudre qu'il m'a donnée, et ce qu'il a fait de ce deux tableaux que je lui avois remis à la Villa d'Este. Adieu, chere et bonne sœur; nous t'embrassons tous de tout notre cœur. Une reponse d'abord s'il te plait.

Ta Sœur, LOUISE DE MONT.

(Address)—A Mademoiselle, Mademoiselle Mariette Bron, à Pesaro.

———

Altesse Royale;

C'est à genoux que j'ecris à ma genereuse bienfaitrice, la suppliant de pardonner mon hardiesse; mais je ne puis resister un presentement. D'ailleurs je suis convaincue, que si son altesse royale connoissoit l'affreuse situation dans laquelle je suis, elle ne seroit point offensée de ma temerité. La force d'esprit me manque pour supporter mon malheur; j'en suis accablée, et je suis plus que persuadée que je succomberai; je me sens d'une faiblesse affreuse, une inquietude mortelle me consume intérieurement, et ne me laisse pas un moment de tranquillité. Une foule de reflexions sur les bontés passées de son altesse royale, et sur mon apparente ingratitude, m'accablent. Que son altesse royale daigne prendre pitié de moi; qu'elle daigne me rendre sa precieuse bienviellance que je viens malheureusement de perdre par le plus funeste imprudence; que je reçoive cette douce conviction avant que de mourir de douleur, elle pourra seule me rendre à la vie.

J'ose encore conjurer, supplier la compas-

assurance of my perfect gratitude. Embrace for me the charming Victorine; repeat also my thanks to the count, and assure him I shall never forget his late kindness. Remember me to the countess, Madame Livia, and Mr. William, begging them to receive the assurance of my sincere friendship.

Dear Mariette, if I were to tell you all those who send you salutations, I should want two more pages, for every one is much interested for you, and they never cease to put up vows for your continued happiness. You are sensible, however, that the most sincere are made by us at home.

You will tell Mr. Hieronimus that John is quite well, and that Mr. Simonin is very well pleased with him in all respects; his board is not paid for, and tell Mr. H. on the receipt of this letter I beg he will immediately send an order to Mr. Demolin for the six months board, and address it to me; he must not delay, for I have need of money. You will not, I think, do wrong, to send me at the same time the two Napoleons to make up twenty-five, if you can. It is I who send you the gown instead of the lace; I think you should trim it with muslin. Make my compliments to Mr. Hieronimus, and tell him the first time I write again, I will give him more particulars respecting his son, because I hope to have more room. I should wish much to know how ink is made with that powder which he gave me, and what he has done with the two pictures I delivered to him at the Villa d'Este. Adieu, dear and good sister; we embrace you cordially. A reply at once, if you please.

Your Sister, LOUISA DE MONT.

8th Feb. 1818. Miss Mariette Bron, at Pesaro.

Royal Highness;

It is on my knees that I write to my generous benefactress, beseeching her to pardon my boldness; but I cannot resist a foreboding. Besides, I am convinced that if her royal highness knew the frightful state into which I am plunged, she would not be offended at my temerity. My spirits cannot support my misfortune; I am overwhelmed by it, and I am more than persuaded, that I shall sink under it; I feel a dreadful weakness—a mortal inquietude consumes me internally, and does not leave me one moment of tranquillity. A crowd of reflections on the past goodness of her royal highness, and on my apparent ingratitude, overwhelm me. May her royal highness deign to take pity on me; may she deign to restore to me her precious favour, which I have just unhappily lost by the most melancholy imprudence. May I receive that sweet assurance before I die of grief: it alone can restore me to life.

I dare again to conjure, to supplicate the

sion et la clemence de son altesse royale, pour qu'elle m'accorde l'extrême faveur d'anéantir ces deux lettres fatales; les savoir dans les mains de son altesse royale, et qu'elles serviront constamment de temoin contre ma conduite passée, me mit au dernier supplice; l'aversion que j'ai meritée de la part de son altesse royale, au lieu de diminuer, augmenteroit par leur lecture. Je me permets d'assurer à son altesse royale, qu'il n'y a que ces deux graces à moi accordées qui puissent me rendre l'existence, et me redonner le repos que j'ai perdu. Ma faute est très grave, il est vrai, et irréparable; mais l'amour est aveugle; combien de fautes n'a-t-il pas fait commettre même aux plus grands hommes. J'ose me flatter que c'est une raison de plus pour que son altesse royale daigne m'accorder les deux faveurs que je prends la liberté de lui demander.

Je me permets encore de recommander à la bienveillance et à la protection de S. A. R. ma sœur Mariette, de même que celle qui est en Suisse. S. A. R. a daigné me faire entendre, que peut-être elle pouroit venir prendre ma place; cette esperance adoucit beaucoup mes peines. Ce seroit encore un acte de bienfaisance, car mes sœurs n'ont qu'une fortune très mediocre, et ce n'est pas dans notre pauvre petit pays où on peut en acquérir. Je suis persuadée que S. A. R. n'auroit jamais lieu de se repentir de sa grande bonté, et de son extrème complaisance envers une jeune fille qui a toujours su gagner l'estime et l'amitié de tous ceux qui l'ont connue personellement. Je ne saurois assez rémercier S. A. R. et monsieur le baron, de la bonté qu'ils ont eu d'envoyer Ferdinand pour m'accompagner; il a, pour moi toutes les attentions et les soins imaginables. Je ne sais de quelle manière reconnoitre tant de bienfaits; mais je vais tacher par ma conduite future de les meriter, et de regagner l'opinion favorable dont S. A. R. avoit daigné m'honorer dans mes jours fortunés.

C'est avec les sentimens de la plus parfaite soumission et du plus entier dévouement que J'ai l'honneur d'etre, de S. A. R. la plus obeisante servante,

Louise de Mont.

Rimini, le 16 Novembre, 1817.

compassion and the clemency of her royal highness, that she will grant me the extreme favour of destroying those two fatal letters; to know that they are in the hands of her royal highness, and that they will constantly bear testimony against my past conduct, places me in the extremity of distress; the aversion which I have merited on the part of her royal highness, instead of diminishing, would be increased by reading them. I allow myself to assure her royal highness, that it is only the granting of these two favours which can restore me to life, and give me back that repose which I have lost. My fault, it is true, is very great and irreparable; but love is blind; how many faults has he not caused even the greatest men to commit. I dare to flatter myself this is a further reason why her royal highness should condescend to grant me the two favours which I take the liberty of asking of her.

I also presume to recommend to the favour and protection of her royal highness my sister Mariette, as well as the one who is in Switzerland. Her royal highness has condescended to give me to understand, that perhaps she might be allowed to supply my place; the hope of this greatly alleviates my distress. It would be also an act of beneficence; for my sisters have only very limited fortunes, and in our small poor country they are not to be acquired. I am certain her royal highness would never have cause to repent her great goodness and extreme kindness towards a young girl who has always succeeded in gaining the esteem and friendship of all to whom she has been personally known. I cannot sufficiently thank her royal highness and the baron for their kindness in sending Ferdinand to accompany me; he has paid me all the attention, and taken all the care of me imaginable. I know not how to acknowledge so many benefits, but I will endeavour by my future conduct to merit them, and to regain the favourable opinion which her royal highness had vouchsafed to entertain for me during the days of my happiness.

It is with sentiments of the most entire submission and the most perfect devotedness that I have the honour to be, her royal highness's most obedient servant,

Louisa de Mont.

Rimini, the 16th Nov. 1817.

Then *Luigi Galdini* was called in, and sworn, and examined as follows by Mr. Parke, through the interpretation of the Marchese di Spineto.

Of what country are you a native? Blevio.

Is that on the lake of Como? It is.

Of what trade are you? A mason.

Did you work at the Villa d'Este at any time? I did.

For how long did you work at the Villa d'Este? About fifteen days, a little more or a little less.

During that time were you employed upon the house of Guggiaro? I built the house of Guggiaro.

Who was Guggiaro? His christian name is Santino, and he was agent at the Villa d'Este.

Was he the agent of the princess? Yes.

Do you recollect a morning when you were employed in making a cornice? I do not remember the day, but I remember that I was working at the cornice.

Was Guggiaro at this house, at that time when you began in the morning? Guggiaro told me the night before, to get ready all the materials to work, such as the plaster of Paris,

marble, sand, and all other things necessary, for I was working by contract.

Was Guggiaro at the house in the morning? He was at the Villa; I waited at the place till nine o'clock, waiting for the materials, which he had promised to send me, and he did not send those materials; and as I had fifteen or twenty men, I set out to go to the Villa d'Este to look after the agent, in order that I might obtain the materials.

What distance was the fattore's house from the Villa d'Este? Guggiaro dwells in the house of her royal highness.

How far is the house which you were making from the Villa d'Este? Three gun shots, 450 paces about.

When you got to the Villa d'Este, did you enquire for the fattore? I did, I went into the kitchen of the fattore.

Did you go into any other place to look for him? I did.

Did you go up stairs? I did.

Were you in a large room when you got up stairs? I went into a room, but it was not a great room, it was a room.

How long did you wait there? For a moment; I opened the door and looked, and saw a good many doors, and I was rather out of humour, for I had lost a great deal of money on account of so many men being upon my back that day, and without work, therefore I opened the door and shut it again.

When you opened a door whom did you see? I saw the baron and the princess who were both sitting.

Whom do you mean by the baron? Baron Pergami.

On what were the baron and the princess sitting? They were sitting both together, the baron had his right arm round the neck of the princess.

What were they sitting upon? Whether it was a sofa, whether it was an easy chair, whether it was a small bed I do not answer, because I was there only a moment, I was confused.

How was the princess dressed as to her bosom? She was uncovered so [passing his hand across his breast.]

In what position was the princess, can you describe that? She was sitting.

Was any one else in the room besides the baron and the princess? I saw no one else.

When you opened the door, what did the baron do? He took away his arm from the neck of the princess, got up and told me, what do you want from here you dog.

Interpreter.—The expression is rather stronger; it is "Razza di cane," son of a dog.

What did you say to the baron? I told him, you must excuse me signor baron; I came here to look after the fattore, for I have got so many men, and I want the materials to make the men work.

Did the baron make any reply to that? He told me that that was not the apartment of the factor.

Did you ever see after that, the princess and Pergami together at any time? I saw them another time.

Where were they when you saw them together? They were coming down the stairs, arm in arm.

Did you see them do any thing to each other at that time? I saw them descending, and standing just for a moment on the stairs, for I was crossing.

Did you see them at any other time, except that which you have last described? I saw them three or four times on the back of an ass; for they were passing in front of a house which I was building on account of the factor.

Was Pergami himself walking or was he riding? He was on foot.

Was he near the princess? He was.

How did Pergami hold his hand? Once behind the back, another time on the thigh; because she was sitting on the ass.

You have said Pergami's hand was behind the back; whose back? Behind the back of the princess; he was supporting her on the back of the ass.

Was any other person with them at the time? They were on the public road; they were going up and down the walk; by day it was a public walk.

Cross-examined by Mr. *Tindal.*

Whom did you first inform of what you knew upon this subject? The first time I mentioned it to the son of the factor on the same day.

Did you go to Milan to give this information? I did.

Who applied to you to take you there? A man of the name of Tagliabue.

Do you recollect at what time that was? I remember it, for Tagliabue took me there with him.

When was it? In the year 1817 or 1818; thereabouts.

Did you go with him there? I did, with some others.

Whom did you see, when you got there? I went to the house of the advocate Vimercati.

What did he do; did he examine you? He did.

Was any one else present besides Vimercati? There were three more persons.

Do you know who they were? They told me that one was a colonel, that another was an advocate, and a third I do not know.

Was he an English advocate? He was so they said.

Was the colonel, colonel Brown? Yes.

How long did you stay at Milan? Four days and a half.

Were you under examination all that time, or the greater part of it? I was examined on the third day, because there were others before me; whether it was the third or fourth day I do not know.

What did you receive for going to Milan? I received ten livres per day to pay my expenses.

Do you mean to swear that you did not receive more for going to Milan? I do.

When were you applied to, to come to England? Last winter, towards the end of March or the beginning of April.

Do you mean the March or April of this year 1820? Yes.

Who applied to you? The same Tagliabue who called upon me with the letter of the advocate Vimercati.

Did you see Vimercati again before you came to England? I did.

Did you make any agreement with Vimercati as to your coming to England? I made an agreement that he should give me ten livres per day.

Was that besides your expenses? They are for the expenses for living.

Who paid your expenses in coming over to England? Our courier gave us our ten livres every day.

Who pays your expenses here? I do not know that.

Where are you staying? I am out at a little distance from this place, but I do not know where it is.

Are there several of the other witnesses with you? I see a good many of them, I see witnesses, I see strangers, I see people, there are many.

Have you seen Theodore Majocchi among them? Yes, in London.

Do you know him? I have known him since my arrival here; I had never seen him.

You have seen a good deal of him since that, have not you? No, he was in one lodging, I was in another, and I have known him since my arrival in England.

Had the room, in which you saw the princess and Pergami, several doors? I went in by one door, there were some other doors, but that was the first time I went into the room.

Do you recollect what time of the day it was that you saw them? The hour was between half-past nine or ten and eleven, but I do not know precisely, for I cannot keep that in my mind.

Were the other workmen employed about in their work at that time? They were at the building of Santini, waiting that I should go.

Do you recollect at what part of the year this was, how long ago it was? It was in the year when they gave that great feast, it was the year 1816 or 1817.

What part of the year was it—not the exact day? Towards the latter end of September or the beginning of October.

Re-examined by Mr. *Parke*.

You say, that when you were travelling here you received ten livres a day from the courier for your expenses, have you received that sum since you were here? No, I have received those ten livres for eleven days.

You say there are many witnesses in the place where you now are; at what place did you land when you first came to England?

Mr. Tindal objected to this question as not arising out of his cross-examination.

Mr. Parke, in support of the question, stated, that it was put in order to do away an inference arising from the circumstance of the witnesses being together.

The counsel were informed that the question might be put.

Where did you land when you first came here? In London.

The first time you came to London? I landed here in London the first time; afterwards I went to Holland.

Where was it you landed before you came to London? I went to Boulogne, and then by sea to Dover.

Were there many of your countrymen, many Italians with you, when you landed at Dover? We were four.

Did any thing happen to you or them at Dover?

Mr. *Brougham* said, he had no objection to the question, but he submitted to their lordships, that there would be no end to the inquiry, if all these unnecessary details were entered into.

Mr. Parke waved the question.

Examined by the *Lords*.

Earl of *Liverpool*.—You have said, that when you opened the door you saw the princess and Pergami sitting, with Pergami's arm round the princess's neck, and that her breasts were uncovered so; do you mean by that that the breasts were bare? I saw it so, and, as far as I saw, I saw it uncovered.

Lord Chancellor.—How far did you see the breasts uncovered? I did not stay to look; I saw it, and made my escape; I saw it in the twinkling of an eye, and it was uncovered as far as here; I saw the breasts (ho veduto le mammelle); I saw the breasts.

A Peer.—Had Pergami his hand upon the princess's breasts? They were so [The witness put his hand round the neck of the Interpreter so as to reach the breast.]

Was it so, or not? I say yes.

Duke of *Hamilton*.—How was the princess dressed at that time? I cannot say; I say what I saw; I was surprised, and went away.

Had she a handkerchief, or any thing which covered the neck? I say no; I saw it so, and I, with my own eyes, saw it naked.

You have been taken to say that the arm was round the princess's neck; was the arm round the neck, or behind the neck of the princess? I am the baron, and you (the Interpreter) are the princess [putting his arm round the neck of the Interpreter.] [A general laugh.]

Do you mean to say that that arm was upon the breast of the princess? I have repeated it many times, I have even shown it; must I repeat the same thing over again; I cannot say more.

The Marquis of *Downshire* rose to observe, that the interpreter had joined in the laugh which the answer of the witness had elicited from some of their lordships. He could not help thinking that such conduct was extremely indecorous, and ought not to pass without some animadversion from their lordships.

The Earl of *Liverpool* thought the conduct to which the noble marquis alluded was altogether involuntary, and occasioned by the peculiar manner in which the witness had given his testimony. If the interpreter had not controlled the feeling which the circumstances were calculated to excite, some of their lordships had also been unable to restrain themselves, and he thought, therefore, that it would be a little too hard to visit the conduct of the interpreter with any degree of severity.

The *Lord Chancellor* thought that demeanour of this sort was highly indecorous, and intimated that opinion to the interpreter

Then *Alessandro Finetti* was called in, and sworn, and examined as follows by Mr. Attorney General, through the interpretation of the Marchese di Spineto.

Are you an ornamental painter? Yes.

Were you ever employed at the Villa d'Este? I was.

By whom were you first employed at the Villa d'Este? The baron.

What baron? Baron Pergami.

How long were you at the Villa d'Este? More than two years.

Did you afterwards go to Rome with the princess? I did.

How were you employed when you went to Rome; in what situation? I was a servant.

During the time you were at the Villa d'Este did you ever see the princess and Pergami together? Many times.

Where have you seen them together? Walking about the grounds.

When they were walking about the grounds in what manner were they walking together? She was holding the hand of Pergami.

Were they alone, or were any other persons with them? Sometimes they were alone, sometimes there was the dame d'honneur.

Have you ever seen them go in a boat together upon the lake? Many times.

When you have seen them in the boat together, were they alone? Sometimes alone, sometimes there was the dame d'honneur with them.

Did you know the room of Pergami at the Villa d'Este? I did.

Do you remember being at any time in the anti-chamber to that room? Yes.

At what time of the day was it that you were in that anti-chamber? It was in the morning between ten and eleven o'clock, or thereabouts.

Did you see Pergami at that time? I saw him come out from the side where the princess's room was.

How was he dressed? In a morning gown, with only his drawers on.

In what direction did he go? He was going towards his room.

Did you see where he went to? He went to his room.

Did he see you? He saw me.

When you were at Rome, at the Villa Brandi, did you wait at table? I did.

Did you wait at dinner and supper? I did.

Who used to dine and sup with the princess? All of the court, and sometimes some persons who had been invited from Rome.

Did Pergami dine and sup with her royal highness? He did.

Did Louis Pergami dine and sup with her at the Villa Brandi? He did.

Did Pergami's mother dine and sup with the princess at the Villa Brandi? She did not; the mother of the baron was not at the Villa Brandi.

Do you remember being at Ruffinelli with the princess? I do.

Was Pergami, at any time during her residence at Ruffinelli, ill? He was.

Was he confined to his room? Do you mean to his bed, or in his room.

Did he keep his bed, or did he only keep his room? He kept his bed.

Have you ever seen the princess in his room? Many times.

What did her royal highness do in that room? She was there conversing.

With whom? With Pergami.

Have you ever seen Pergami taking any medicines while he was ill at that time? I have seen him.

Who gave him the medicines? Sometimes I have seen her royal highness the princess.

Were you ever present when Pergami's bed was warmed? I was not present when the bed was warmed, but I brought the warming pan.

Have you seen Pergami get out of bed for the purpose of having his bed warmed? I have.

Was the princess in the room at that time? She was.

Do you remember going from Ancona to Rome with the princess? I do.

On any evening in the course of that journey do you remember seeing the princess and Pergami any where? Not in the evening.

At any other time of the day or night? Never in the night, I have in the day.

At what time of the day was it that you saw them? I do not remember whether it was before or after dinner.

At the time you saw them together, did you make any observation upon their conduct? I did.

What was it? Passing through a court I saw the princess so [making a motion.]

Who was with the princess at this time? Pergami.

You have described the princess as putting her arm round some person—

Mr. *Brougham* interposed. He begged to remind his learned friend that they had no *cuts* to assist them in this case;—the bag of evidence had every merit except that of being embellished with cuts. Now the witness had merely made a motion with his arm, and he really thought it incumbent upon the Attorney-General to get from his witness a description in words of the supposed gestures of her royal highness, instead of assuming them from unmeaning signs.

The witness was directed not to answer by making signs, but by words.

Describe how you saw the princess and Pergami at the time you were passing through the court? The princess was embracing Pergami.

Lord Chancellor.—What do you mean by the word "embrace?" She was doing so with her hands [making a motion].

Where did she put her hands? The princess was putting her hands round under his arms.

By that do you mean round his body? I do.

Mr. Attorney General.—In what direction were their faces at that time—towards each other? One opposite the other (l'una contro l'altra).

Were their faces near each other, or how? Their faces were at a distance, for she is short and he is tall.

Were you at Caprila near Pesaro? I was.

With the princess? Yes.

Did you ever see the princess and Pergami together at Caprila? I have seen them many times together.

Do you remember on any particular occasions, seeing them after dark, or in the evening together at Caprila? On the first evening I saw them.

Where? Out of the house, on the steps which led into the garden.

What were they doing when you saw them together? I went to look for a key, because I thought her to be the wife of the agent, and I found she was the princess; she was just embracing Pergami, as I have described before.

Have you ever seen them in that situation at any other time? Not at Caprila.

At any other place? I have seen it sometimes also at the Villa d'Este.

Have you ever seen them do any thing else to each other? I have seen them kiss each other.

Have you seen that more than once, or only once? I saw it only once there; other times I do not remember.

Mr. Wilde stated, that he had no questions to propose to the witness.

Then *Domenico Brusa* was called in, and sworn, and examined as follows by Mr. Parke, through the interpretation of the Marchese di Spineto.

Of what country are you? Of Cazzoni.

Of what trade are you? A mason.

Were you at any time employed in the service of the princess of Wales? I was.

How long were you employed? From the year 1815 to the year 1817.

Were you at the Villa Villani? I was.

And also at the Villa d'Este? I was.

And also at the Barona? I was also at the Barona.

Did you ever see the princess and Pergami together? I have.

Have you seen them often? I have seen her once, twice, three times, many times.

Have you seen them walking together? I have.

How were they walking when you saw them? They were in a boat on the lake.

When you saw them in a boat on the lake, were they alone, or was any-body with them? They were alone.

When you saw them walking together, were they alone? They were alone.

Were they walking separate from each other, or arm in arm? They were alone, but he was rowing.

Have you seen them walking together on land? No, I never made any observation about their walking on land; I have seen her sitting.

When you saw the princess sitting, was any one with her? There was a certain baron.

Who was that certain baron? He was called a certain Pergami.

Was Pergami sitting at the same time? He was; it was on the evening of the feast.

What feast do you mean? The feast of St. Bartholomew, when they gave a housewarming at the Villa d'Este.

At what time was it that you saw them sitting together, what time in the day? It was in the evening.

Whereabout was it they were sitting? They were sitting upon a bench under some trees, a kind of arbour.

Was there any one there besides the baron and the princess? I saw the baron and the princess, and nobody else.

Do you know Raggazoni? I do.

Was any one with you when you saw the princess and Pergami together? There was; a certain Raggazoni and I were going to sleep in a place called the Paese, which is near the Villa d'Este.

Do you remember being at work on any day at the Villa d'Este, near a corridor? I do.

Were you working in a room? There was a room, and then there was another, and they made two.

Was there a door from one room to the other? There was.

Opposite that door, at the other end of the room, was there another door.

Mr. Denman objected to the question as leading.

The counsel were informed, that they might ask whether there were any and what other doors.

Mr. *Parke*.—Was there any and what other door in the room you have mentioned, besides that leading into the room in which you were working? There was another door.

In what direction was that other door you have described with respect to the first door? They were opposite to each other, one led one way and the other the other, in the same direction.

When the door of the room in which you were working was open, and the other door you have described was also open, could you see through both? When I was going a garzone was coming out, and we met.

When you met the garzone coming out, could you see into the other room? I could, because the door was open.

Did you see any person in the room at the time that the door was open? I did.

Whom did you see? The princess and the baron.

What baron? Pergami.

What were they doing when you saw them? They were caressing each other with their hands.

Was the princess sitting or standing? Standing.

Was Pergami sitting or standing? They were both standing.

In what way were they caressing each other?

[The witness made a motion.]

Describe it in words? They paid caresses to each other with their hands.

What part of the body did they touch? On the face.

Do you know Pergami's room at the Villa d'Este? I know it; but I cannot distinguish it, for there are many rooms, they have told me that was the room.

Do you know of any alteration after the princess returned from Greece, in that room which you were told was Pergami's?

Mr. *Denman* objected to the question, it not appearing who had told the witness that it was Pergami's, or on what ground he supposed it to be Pergami's.

The counsel were informed, that if the witness has said he was told such a room was Pergami's room, though that did not prove the fact that it was Pergami's room, he might be asked the question whether any alteration was made in a room which he was told was Pergami's room.

The question was proposed to the witness.

I have not seen it.

Do you know of any thing being done to the wall of that room? I have seen those kisses and those caresses, and I have seen no other.

Did you see any work done to the wall of that room which you were told was Pergami's? I have not it present to my mind.

Mr. Denman stated, that he had no question to propose.

Then *Antonio Bianchi* was called in, and sworn, and examined as follows by Mr. Attorney General, through the interpretation of the Marchese di Spineto.

Are you an inhabitant of Como? I am.

Do you know the princess of Wales? I do.

Do you remember when she lived at the Villa d'Este? I do.

Have you ever seen her on the Lake of Como, in a small boat? Many times.

Was any one with her when you have seen her in that small boat? There was.

Who? A certain Bartolomeo Pergami.

Were they alone in this small boat together, or was any other person with them? The two alone.

Do you know the river Brescia? I do.

Have you ever seen the princess and Pergami on that river? I have.

What have you seen them doing there? I have seen them in a little canoe, near to the gate or dam which they put into the water to prevent the water from overflowing the country.

What were they doing there? I have seen first the canoe empty, and then a moment after I saw Pergami, accompanying the princess, take her by the arm, and enter the canoe.

Where were they coming from when they went into the canoe? They came from this flood-gate, from this riparo.

Describe what the riparo is, and whereabout it was? [Describing it.] This is the river, and this is the riparo, which is a bank to prevent the water overflowing this small tract of land, where there is a vineyard; and here, further on, is a road which leads on a new road, which the princess has ordered to be made, and has cut the road through the vineyard.

Where were they when you first saw them? They were coming from the riparo, and were coming through this little road to get into the canoe.

Is that the only time you saw them on the Brescia? I have seen them several times, but then I saw them go backwards and forwards.

How were they dressed when you saw them at this riparo? Both in white.

What sort of dress? I cannot tell, for I did not go and touch them; I cannot say whether it was linen or silk, or any other thing.

Could you see whether they had been in the water or not.

Mr. Denman objected to the question, and submitted that the question ought to be put, what their appearance was.

The counsel were informed, that they might ask whether their clothes were wet.

Mr. Attorney General.—Were their clothes wet? At the top they seemed wet, but I cannot tell whether they were dry or not, for I did not touch them.

Did they get into the canoe when you saw them? They went.

Which way did they go with the canoe? They came down the small canal, and then they went towards the villa.

What small canal are you talking of? The small canal of the Brescia.

What time of the day was it? About two in the afternoon.

Where was it you first saw them; whereabout were they when you first saw them at that time? I saw them the first time leaning against this riparo.

Was there any water where they were standing? There is a little water, but not much.

How much? The depth of a braccio.

When you first saw them were they standing in that water, or were they upon dry land? I saw them that they were leaning against this bank, then afterwards immediately I saw him conduct her to the boat.

Was that place, where you say the water was about a braccio deep, a place used sometimes for bathing? Many gentlemen go there.

Do they go to bathe? Many gentlemen go there to take a little bathing in that place, because the bank is good, and the water is clear.

When you first saw the princess and Pergami at that place, were they standing in the water or not? They were in the water, but they came out immediately as soon as they saw me with four gentlemen who were in a boat; they came out and went to the canoe.

You say the princess was dressed in white; did you observe how she was dressed in the lower part, what she had on? A species of loose trowsers that reached to the feet.

Mr. Denman stated, that he had no question to put.

Examined by the *Lords*.

Duke of *Hamilton*.—How many feet is a braccio? A braccio is the same with which they measure cloth, linen, every thing. [Showing the length of his arm. The witness measured before him about three quarters of a yard.]

Then *Giovanni Lucini* was called in, and sworn, and examined as follows by Mr. Parke, through the interpretation of the Marchese di Spineto.

Of what country are you a native? Of Blevio.

Is that on the lake of Como? It is.

What trade are you? A white-washer.

Were you employed at the Villa d'Este? I was.

Was that in the service of the princess? It was.

Do you know Bartholomew Pergami? I do.

Whilst you were at the Villa d'Este, did you see the princess and Pergami together? I did.

Have you seen them together often? I have seen them many times.

Did you ever see them riding together in a carriage? I have.

Did you ever see them in a padovanello? I have seen them in a padovanello.

Describe in what way the princess sat? He was sitting behind in the padovanello, and she was sitting on his knees.

Where was the arm of Pergami? He had his arms under the arms of her royal highness, holding in the left the reins, by the right the whip.

Do you recollect at any time being at work in a tower near the Villa d'Este? I do.

When you were working in that tower, did you see the princess and Pergami? I did.

What were they doing when you first saw them? They were reading a book.

Were they sitting, or walking, or standing? They were sitting.

After you saw them, what did they do? They got up and went into a small cabinet, which was just by.

Was any person with them at the time? No.

In what way did they walk into this cabinet? They got up and went in; he got hold of her arm to help her to get up.

When they walked away, did you see where Pergami's arm was; I did not see that, because he helped her to get up, and then they walked together side by side.

Do you know the room at the Villa d'Este, which was Pergami's? I do.

Did you see Pergami in that room in a morning through the window? I did.

How was he dressed? He had on a morning gown of lead colour.

At what time in the morning was it that you saw him? Between ten and eleven.

Did you see any body else in that room at that time? There were he and the princess.

How was the princess dressed? I believe she was dressed in white.

What were they doing when you saw them? They were so, and I immediately retired.

What do you mean by "so?" They were at the window, looking down.

Did you observe nothing more? I did not, I was working at my business.

How long did they remain at the window when you saw them? A little time.

Were you ever present at the theatre at the Villa d'Este? I have been.

Was any one performing? There was.

Who were they? The princess was singing, and Mr. Pergami was playing upon an instrument, torototela.

Cross-examined by Mr. *Denman*.

Did you not say at Milan before you came here, that you knew nothing about it? I do not understand the question.

Did you not say at Milan, that you knew nothing upon the subject, but wished for a journey to London? To me they have told nothing; I have been examined at Milan.

Examined by the *Lords*.

Earl *Grey*.—Is a padovanello a carriage commonly used in your country? It is.

Is it not a carriage with one seat only? With one seat only.

Can two people sit side by side in that seat? They cannot.

Is it not the custom for the man who drives to drive with any other person in the carriage sitting on his knees, and holding the reins and the whip on the sides? Certainly, when there are two it is necessary that one must sit behind, and the other upon him.

Lord *Ellenborough*.—Have you frequently seen two persons in a padovanello? Yes, I have seen others.

Then *Carlo Rancatti* was called in, and sworn, and examined as follows by Mr. Attorney-general, through the interpretation of the Marchese di Spineto.

Were you ever in the service of the princess of Wales? I have been.

How long were you in her royal highness's service? Nearly two years.

What was your situation in the service? Confectioner.

Where did the princess live when you went into her service? At the Villa d'Este.

Do you know Pergami? I do.

When you were at the Villa d'Este, have you ever seen the princess and Pergami together? Always.

When they were together, what observation did you make upon their conduct towards each other.

Mr. *Denman* objected to the question, and submitted that the fact should be stated, but not the observations which the witness had made upon their conduct.

The counsel were informed that they might ask what acts he had observed, and that he should fix the time as nearly as he could.

When you have seen them together at the Villa d'Este, have you seen them do any thing towards each other; what have you seen? I have seen nothing else, but to see them go walking together.

When you have seen them walking together, in what manner were they walking together? They were walking as if they were true friends, husband and wife, or something like.

In what manner did they walk together, how were their arms when they walked? They went arm in arm as man and wife.

Did you go with the princess to the Villa Brandi at Rome? I did.

Was it your duty to prepare the breakfast for the princess? It was.

Do you remember at any time when you were preparing breakfast at the Villa Brandi, seeing Pergami? I do.

At what time in the morning was it that you recollect to have seen Pergami? Sometimes I saw him at nine o'clock, sometimes in the morning as early as five.

Do you recollect at any time when you saw him in the morning early, seeing where Pergami came from? From his room.

Did you ever see him come from any other room but his own? I have not.

Did you accompany the princess to the Villa Caprila near Pesaro? I did.

Do you remember at any time when you were in the apartment of the princess, seeing the princess and Pergami together at Caprila? I do.

Did they do any thing when you saw them so together? They were going to walk; I have seen them a thousand times, and I do not know what time precisely you allude to.

Do you recollect whether the princess kept any birds at the Villa Caprila? She had a nightingale.

Did you ever carry meat to the nightingale? It was my duty to do so.

Do you remember at any time, when you were about giving meat to the nightingale, seeing the princess and Pergami together? I do.

Upon that occasion did you observe them doing any thing to each other? Once I observed something.

What was it you observed upon that occasion? I observed that they were kissing each other.

At the time they were kissing each other, did you hear the princess say any thing to Pergami? She was saying, "Do not remain so long out mon cœur;" she said something else in French, but I do not know how to explain myself.

At Caprila do you know Pergami's bed-room? I do.

Have you ever seen or heard Pergami in the morning calling his servant from the bed-room window? Many times I have seen him.

At any time when you have so seen Pergami at his bed-room window, have you seen the princess any where? I have seen the princess in the room of Pergami when he was calling for his servant.

Have you been present when the princess came down to breakfast? I did always see her.

When she came down to breakfast, did any body come with her? She came with Pergami under her arm.

Cross-examined by Mr. Williams.

Did not your occupation lie chiefly in the house? It was almost always in the house.

Waiting upon the princess often, were you not? Waiting upon the princess, and any other person who called on me in my capacity.

Where was that bird, the nightingale kept? In the room before the cabinet of the princess.

What room do you call it? It was called a room for the reception of company.

What time of day was it that you were feeding the bird? Abot ten o'clock.

In the morning? Yes, ten in the morning.

Was that about the usual time? It was, moments sooner or later.

Then *Francesco Cassina* was called in, and sworn, and examined as follows by Mr. Parke, through the interpretation of the Marchese di Spineto.

Of what country are you? Of Piazza.

Is that on the lake of Como? It is.

Of what trade are you? A mason.

Were you ever employed at the Villa d'Este? I have been employed there seventeen years at the Villa d'Este.

Were you employed at the Villa d'Este while the princess of Wales lived there? I was.

Do you know Pergami? I do.

How long have you known him? I have known him in the family of Pino.

In what situation was he when you first knew him? Valet.

Did he wait at table? He did.

Do you know the situation of Pergami's bed-room at the Villa d'Este? I do.

Do you recollect when the princess of Wales returned from her voyage to Greece? I do.

Do you recollect any alteration being made about that time in the wall of Pergami's bed-room? I do.

What alteration was it that you know of? They opened a door.

Did you break down the wall in order to open a door? There was a door, but it had been walled up on one side.

Were you employed to clear away that door way? I stopped it myself, when I was with general Pino.

Do you know whether any change took place about that time in the situation of the bed-room of her royal highness? I do.

What alteration was made in the situation of the bed-room? It was changed where she was at first; she changed a few days afterwards into that where the opening was made.

When the princess's bed-room was changed, did that door which was opened afford a communication from Pergami's bed-room to the princess's bed-room? It did, but there was another room between.

Then after that door was made, how did a person go from Pergami's bed-room to the princess's? By that door which I had opened any man might go into the next room, and then there was a small corridor which led into the room of the princess.

Before that communication was made by that door you have mentioned, how would a person who wished to pass from Pergami's bed-room to the princess's have to go? He must have gone through by the staircase, then through the large saloon, then through this anti-room, then through the corridor, and then to the room of the princess.

Did the opening of that door afford an easier communication from one room to the other? It was shorter, there was only to pass through one room.

Cross examined by Mr. Denman.

The door you made was an old door broken out again, it was not a door made for the first time? It was so.

Then *Giuseppe Restelli* was called in, and sworn, and examined as follows by Mr. Solicitor-general, through the interpretation of the Marchese di Spineto.

Were you ever in the service of her royal highness the princess of Wales? I have been.

In what capacity or situation did you enter into her service? At first as under the chief superintendent of the stables, and afterwards as the head superintendent of her stables.

When was it you first went into her service? I entered her royal highness's service at Como at the Villa d'Este.

At what time, as nearly as you recollect? At the latter end of August or the beginning of September of the year 1816.

How long did you continue in her service? Till the end of November, 1817.

Where was her royal highness living at the time when you first entered her service? At the Villa d'Este.

Was Pergami residing there at that time? He was.

Have you ever seen Pergami ride out in any carriage with her royal highness? I have several times.

Did you ever see her ride in a carriage called a padovanello? I have.

Describe how she sat in that carriage? She was sitting on the knees of Pergami.

Did you ever see her royal highness on the lake of Como? I have seen her several times.

Have you ever seen her upon the lake in a canoe with Pergami alone? Yes, sometimes alone, sometimes with other people.

Did you ever see her royal highness drove out in any other carriage besides the padovanelle with Pergami? Almost every day when she went out.

Do you remember a cloak which Pergami was in the habit of wearing? I do at Pesaro.

Did you ever see Pergami riding out in a carriage with her royal highness with that cloak? I did.

In what manner was that cloak placed at the times that you allude to? Her royal highness had it upon her shoulders, but with the lower extremity of this cloak she covered Pergami.

Do you remember, at any time when you were at Pesaro, her royal highness going in the road towards Farno? Not to Farno, but returning on the road from Farno to go to Caprila.

Was it your duty to accompany the carriage on horseback? It was; I rode before, and I came near to the carriage whenever I was sent for to receive orders.

Do you remember, at any time when going on the road towards Farno, returning to the carriage for the purpose of receiving any orders? On our return on the road from Farno, near to the gate of Pesaro, I went near to the carriage to receive orders as to the road which I was to take, because sometimes they went round, and sometimes they took another road.

Was the carriage an open carriage? It was an open carriage.

When you returned to the carriage in this way, did you take any notice of where the hand of her royal highness was? I did.

Where was it? In the small clothes of Mr. Pergami.

Did you see that distinctly? I saw it distinctly; I was ashamed of it at the moment when I came to the door.

Do you know Cattolica? I do.

How far is that from Pesaro? Ten miles.

Do you remember the princess at any time driving out there for the purpose of meeting Pergami? Several times, and I was with her.

Do you remember one occasion when Pergami had been absent two days? I do not know whether he had been absent two or three days.

Did her royal highness go out for the purpose of meeting him? She did.

Did she return again before she met him? She did.

Did you afterwards see the carriage of Pergami before you got home? Almost immediately after we had turned, before we reached half way.

Was Pergami in the carriage? He was in his travelling carriage, a white carriage.

When he came up to the carriage of the princess, what did he do? Pergami descended from his carriage, and ran to the door of the carriage of her royal highness, and she descended from her carriage.

After they had descended from their respective carriages, did her royal highness address Pergami; and if so, in what terms, what expressions did she use? They spoke to each other; I did not hear what words of compliment they paid each other, but they kissed each other.

Did you hear any expressions she made use of towards him? Mon cher ami.

After they had embraced each other, and made use of these expressions you have mentioned, what did they do? They took each other by the arm and went into the same carriage together; this was by night.

Do you remember the little Victorine at the Villa d'Este? I do.

How did she call the princess? Mamma.

Do you recollect any conversation, or any thing passing between the princess and little Victorine at the Villa d'Este? Her royal highness caressed her like her own child, for she called her, "Viens ici, ma chere fille."

Were you ever at the Barona? I have been.

Did you ever see the wife of Pergami? I have, but at the time when the princess was not there.

Did you ever see the wife of Pergami at the Barona when the princess was there? She was there once whilst her royal highness was arriving, and they all made their escape, they all went away.

Mr. Denman objected to this answer standing upon the minutes, the princess not being there.

The counsel were informed, that the answer should remain upon the minutes.

Cross-examined by Mr. *Denman*.

When were you dismissed from the service of the princess? Towards the end of December, 1817.

Were you not discharged for stealing the corn? No.

Was not that the charge on which you were dismissed? No.

What were you dismissed for? Because I gave leave to two of our men to go to the inn, to the tavern, and Bernardo the cousin of the baron and some others went to stop these men, and when these men came to complain to me of it, I said I never knew that a master should be a thief-catcher, thief-taker (sbirro).

Interpreter.—It is a constable, but a low kind of constable, and in Italy it is rather a term of reproach.

The Witness proceeded.—And then the day after that, Louis came with the money that was due to me for three months salary, and told me, that as I was an honest man I ought not to be among the sbirri; so I took the money and went away.

You say you were dismissed on that account? Yes.

Were you never charged, when in the ser-

vice of the princess of Wales, with stealing the horse provender? Never.

The question does not refer to a charge before a magistrate, but were you not charged in the family of the princess, or by herself, with having stolen the horse provender? No, never.

You swear to that as you do to all the rest of your evidence? I do.

You never said that to any body, that you had been dismissed on a charge of stealing corn, did you? I could never tell this lie.

Do you mean that you never tell a lie, or never without being well paid for it?

The Solicitor General objected to the question.

The Counsel were informed, that they might ask the witness whether he was paid for the evidence he had been now giving.

Mr. *Denman.*—Do you understand English? No.

Not at all? Nothing at all.

How long have you been in England? The day before yesterday.

When did you first hear that the commission was sitting at Milan? Towards the end of December of the year 1818.

Between that time and the time of your leaving the princess, were you in any service? No.

How did you support yourself in the meantime? I had a pension from the government, and I always have been employed as a courier.

What government is it which gives you the pension? The Italian government.

Did you offer yourself as a witness to the Milan commission, or did those who pay you your pension induce you to go before them, or how? I have not been to Milan for this purpose, but I am settled at Milan.

The question was not whether you went to Milan, but were you induced to go to the Milan commission, or did you go voluntarily? I have been sought after.

Who sought you? The first time, a man of the name of Riganti came to tell me to go to the advocate?

To the advocate Vimercati? Yes.

Riganti is a tobacconist at Milan, is not he? He is.

How soon after Riganti spoke to you, did you go before the commission? I have only spoken with the advocate at first.

How soon was that after Riganti sought for you? The day after.

Was any body with the advocate when you first went? There was not.

Did the advocate then take your deposition? He did not.

Did he ask you any questions about what you knew? He did.

How soon after that did you go before the commissioners? I believe a day or two after.

How many persons did you find assembled there? There was the advocate, three English gentlemen, and two Italian amanuenses.

Did you then tell the same story which you have told to-day? I did.

Was it taken down in writing? It was.

Were you sworn to the truth of it? They did not swear me, but they told me, that I should be obliged to swear to the truth before a tribunal; I said I would.

Did you then take out your own cross and kiss it? I did not, I was not there to take an oath; he only told me that I should be obliged to swear, if the occasion should require, before a tribunal, and I said that I would.

Did you not then become one of the most active agents of that commission?

The Solicitor General objected to the question.

Did you not become a very active agent of the commission? I was not an agent, they have given me orders only as a courier, which is my profession, and as a courier I have travelled.

You have been employed as a courier by that commission? Yes, sometimes; whenever they had need of me.

Where did you first go in your quality of courier to that commission? I went into Westphalia.

Whom did you see there? I went with a letter to a man of the name of Credé, to come to Milan.

Did you know Credé before? Yes, I have known him in the house of her royal highness.

Where was he in Westphalia? At Hesse Cassel.

Morris Credé, was it? Yes.

You say you took a letter to Credé, did not you yourself persuade Credé to go to Milan? I did.

Did you not offer him money to go? I did not.

What did you say to induce him to go? I told him that the advocate and the commission at Milan required him, and that both his expences in the journies in going and coming should be paid.

Where did you go next as messenger to the commission? I have accompanied Mr. Cooke by the way of Lyons to go to Frankfort, and I had dispatches for Milan.

Did you go to Cassel and back again? Not at that time.

When you went for Credé, did you go there and come back? I did.

Whom did you see at Frankfort? I saw Credé.

Whom else? I have seen at a distance, but I did not speak to her, Preising.

Who is she? A maid that was in the service of her royal highness.

When? At the time that I entered the service of her royal highness, about September in the year 1816, at the Villa d'Este.

Did you see any other witnesses at Frank-

fort? I did not, I saw this woman by chance at the inn, but I did not speak to her.

Did you go back from Frankfort to Milan with Mr. Cooke? I did not go with Mr. Cooke, I went with dispatches.

Did you go from Frankfort to Milan? I did.

What was the next journey you made as courier to the Milan commission? It was to go to Paris with dispatches to lord Stewart, or Mr. Stewart, and return.

Do you mean lord Stewart the ambassador at Vienna, or sir Charles Stewart the ambassador at Paris? I mean the ambassador at Paris.

Where did you go next from Milan? I do not know precisely which was the fourth or the fifth, but I have made several journeys.

After you returned from Paris to Milan, where did you next go as courier to the commission? I have made several other small journeys, which I do not remember; but now lately I came to England with eleven witnesses.

Were you ever at Vienna on the same business? I have not been.

Have you had any other means of getting your bread except this, since you left the princess's service? Yes; I have besides a pension from the government; and besides, I am in the trade of a coachmaker.

Who recommended you to the commission; do you know? Nobody recommended me; but when I spoke to the advocate, he told me that it was only to tell the truth, and I told it.

Do you know Enrico Ravizza? I do not; not that I know of.

A man of Lodi? I do not know him.

Have you offered any body money for coming here as a witness? I have not.

Have you persuaded several persons besides Credé to come? Credé did not come with me; Credé did not go to Milan at that time.

Do you know Draggoni? I do.

Angelo Draggoni? I do.

Did you never attempt to persuade him as a witness? No; I have spoken to him in confidence, but I have never endeavoured to bring him.

When did you leave Milan to come here? The first time I left it on the 29th of June.

Did you bring your father with you, and your wife and your children? I did not.

What are you to have for coming? They have promised me nothing.

What do you expect to have? Nothing; they have offered me nothing, and I have nothing to expect.

Do you mean to swear that you expect nothing? I do.

Who are the persons with whom you came? Some I know, some I do not know; those I know, I know because we came together, but I had never seen them before.

Who are they? They are various; I knew them by sight before, but I had no intimacy with them.

State their names? Of some I can say; the others I do not know.

State the names of those you do know? Carlo Rancatti, Gerolamo Mejani, Paolo Oggioni, Philip Riganti, Enrico Baie, Finette the wife of Majoochi; perhaps there may be some more, but at present I do not remember them.

Is Credé in England, do you know? I do not know.

Is that maid-servant, whose name you have mentioned as having seen her at Frankfort (Preising) in England? She is.

Do you know Ciceri? By sight, but I never spoke to her.

The question refers to a man of the name of Ciceri? Yes, but I never spoke to him.

Do you know whether he is one of the agents of the Milan commission? I do not know.

Have you seen colonel Brown? I have.

Where did you see him? In his house, where I went to take the dispatches upon which he sent me.

Have you been in any service from your leaving the princess up to this time? I have not, no other than being a courier employed by the colonel.

Did you never seek for Draggoni? I have been sometimes looking out for him, seeking for him, for we are friends, but not upon this business, as he has come sometimes to look after me.

You never offered Draggoni any money to come forward as a witness? I did not.

Did you never say that any body would give him money for his testimony? I did not.

Do you know colonel Vassali? I know a Vassali, but not a colonel; the Vassali I knew was a captain.

Did you see him some short time after you left the princess? I did.

Had you any conversation with him respecting the cause of your discharge? I had.

Did you not tell him any thing about the charge of stealing corn? I did not say so, I only said I had been discharged because I called them Sbirro.

That is all you told him as the reason of your being dismissed? This was what I said; but if I had said something more, it is not what I can remember at present of this discourse.

Did you not tell him that the charge, whatever it was, was false? I did not say that; I only said that I had been discharged for that which I have said, and which it is true I did say.

With regard to the time when you say the princess and Pergami were in the carriage, and you saw her hand in the situation you have mentioned, was it an open carriage? It was a carriage for two, with the top open, thrown behind, and a kind of apron or cover which came here [in front]; but at the moment that I came to the door to ask for orders, I saw the hand drawn from this part, which was uncovered.

Was the part of the carriage from which you saw the hand withdrawn above the apron? The apron did not reach so far, there was only the cloak that covered the breeches.

You came back for orders, did not you? I did.

How far had you got from the carriage before you turned back to receive the orders? The distance from hence to this pillar, four or five paces.

You are understood to have said that you were in the habit of stopping at that place and receiving orders as to which road they would choose to go? Not always, because sometimes I received those orders at the time I sat out; but when I did not receive them I went to the door to ask for orders.

When you did not receive orders at setting out, you were in the habit of stopping at that place for the purpose of receiving them? It was not always, but that was only the second or third time that her royal highness made me to go by that way, to go and look after the count Cassio.

You had stopped there several times before, once, twice, or three times, to receive orders? She had given me the orders before we set out, and on that occasion that I stopped at that place, it was the first time.

Did they call you to the carriage? They did not call me, I went of myself.

How often had you been upon that road before with the princess? Several times.

Had you always received, before that, orders which way you should go? Sometimes I received the orders, but at others, when they were with six horses, with which they generally did go, then I merely looked behind, and they made a sign with the hands which way I should go; but on that occasion they had a small carriage, and I went back.

Did you say you had seen this very distinctly? Yes, I saw her take out, or take away her right hand from his breeches.

You saw that very distinctly? I saw very distinctly the princess take away her hand, and I was ashamed to see her do so.

It was broad day-light? It was between two and three, or half-past three.

On the public road? Yes.

On which side was she sitting? The princess was sitting on the left, and Pergami was sitting on the right driving.

Whom did you first tell this story to? I did not tell it to any body before I told it to the commission.

How soon was that after the time that you saw it? Eleven or Twelve months.

What month was it in? Do you mean when the thing happened, or when I told it.

In what month did the thing happen of which you have spoken? I do not know precisely, but it must have been about the end of November, or beginning of December.

In what year? 1817.

You do not know whether it was in November or December? I do not know precisely.

Who was living at the villa at that time, what servants? There was Majocchi, a certain Francois, whose name I do not remember; there was Andrea Geralli; do you want to know the whole family.

State those with whom you are most intimate? I had no intimate acquaintances; for as I was the chief, I did not give confidence to any one of them.

Did not the princess remove her hand as soon as she saw you? She did.

Did she appear confused? I paid no attention to that, because I immediately turned away with my horse.

How long after that was it that she turned you away? I do not know precisely; it was a month or six weeks, twenty days or thereabouts; I do not know precisely.

Examined by the *Lords*.

Earl of *Liverpool*.—You state that you have a pension from the Italian government; on what occasion had you that pension given you, and on what account? I have received it on account of having been seven or eight years in the service with prince Eugene, who was then viceroy of Italy.

When did you first get the pension? I received it about 1815, but the pension was granted to me in the year 1814.

Does the present government of Milan continue to you the pension? It does.

Have they ever employed you as a courier since you have had the pension? They have not; if I had any employment I should receive no pension.

What is the amount of your pension? Two hundred and sixty livres a year.

Earl of *Lauderdale*.—At the time you turned to the carriage in which the princess and Pergami were, to ask which road they wished you should take, did you get any directions from them upon the subject? Yes, we entered the town on the right hand, to go to take up count Cassio, to bring him to Caprila.

Who gave you that order? The baron, but he gave me a simple word, count de Cassio, and with this word I knew my road.

Was that order given before you saw the princess's hand or afterwards? At the moment that she was withdrawing her hand, the baron said, count de Cassio.

Did you then see what you have communicated to this house, and hear the order exactly at the same time? Yes, I heard count de Cassio, and I immediately turned round.

Then *Giuseppe Galli* was called in, and sworn and examined as follows by Mr. Parke through the interpretation of the Marchese di Spineto.

What countryman are you? Of Cossano.

Is that in Italy? It is.

What is your occupation? A waiter.

At what place are you waiter? At Barlisina at the Crown inn.

How far is Barlisina from Milan? Thirteen miles.

Does it lie between Milan and Como? Halfway.

How long have you been in the employment of waiter at that inn? Five years.

Did you ever see the princess of Wales at that inn? I have.

How often have you seen her there? Three times.

When was it you first saw the princess of Wales? The first time she passed by in a carriage, and took something for breakfast in the carriage.

When was that; in what year? It is about three years ago.

Do you recollect who was in the carriage with her? There was a certain Pergami.

What Pergami; do you know his name? I have heard that he is called Bartholomew.

How long after that was it that you saw the princess again at the inn? About six weeks after.

The second time when you saw them, what did they do at the inn; did they breakfast or dine? They came to dinner.

Did you see the princess and Pergami together upon that occasion? I did.

What was their conduct towards each other? Pergami came from Milan, for he had passed in the morning to go to Milan, and the princess came afterwards from her own way to come and dine there.

When you saw them together, how did they conduct themselves towards each other? The baron was sitting near the princess.

Did you see them together before dinner or after dinner? Pergami arrived half a quarter of an hour before the princess, and the princess arrived half a quarter of an hour after Pergami.

Did you see them together before dinner? Not before dinner, because before dinner there were seven, or eight, or ten, altogether in a room.

What was their conduct towards each other when you saw them? At the dinner I saw that they payed compliments to each other, and I saw that they took some delicate morsel and offered to each other.

In what way did they address each other? They spoke in French.

Describe in what way they used those delicate morsels you have mentioned? The baron was the first who took something out of his plate and offered it to her royal highness, but I do not know what sort of food it was, for I do not recollect; but then her royal highness took something out of her own and gave it to the baron.

Was it taken from the plate of the princess and the plate of the baron, or from some dish on the table? From their respective plates.

You said that they spoke French to each other; in what way did they speak to each other in French? I do not understand well the French; I cannot understand it.

Do you recollect at any time when the princess dined at the inn her having two rooms appropriated to her? I do.

Do you recollect what were the numbers of the rooms? No. 7, and No. 8.

Did they communicate with each other? They did.

How many doors were there in No. 7? In No. 7 there was one door.

How many in No. 8? One to enter in No. 8, and another that led into No. 7, which makes two.

In which of the rooms did they dine? No. 8.

What was there in No. 7? A large bed.

After dinner did you see the princess and Pergami together in No. 8? I did.

How many persons dined that day with the princess? The first time that she dined at the inn there were ten.

Are you speaking now of the first time, or the second time, when she dined in No. 8? She dined there twice.

Did she dine both times in No. 8? She did.

When you saw the princess and Pergami together after dinner, were the company remaining in the room, or had they gone out? They had gone into the second room.

Did you observe any thing done by the princess and Pergami? I did.

Describe what you saw? I went to go and clear the table, and I saw the baron holding an arm upon the shoulder of the princess, and, at the moment that I was going into the room, I saw the baron give her a kiss; but I did not enter, for they told me immediately to go away.

In what way was the baron's arm placed? The baron was on the right, the princess was on his left, and the baron held his left hand upon her royal highness's shoulder.

Was the arm on her shoulder, or round her shoulder, or how; what way was it placed? He had his upon her shoulder.

Did you observe in what way the princess and the baron left the inn at that time? I did.

How did they go away? I saw them go both together à charabanc.

Interpreter.—A charabanc appears to be a species of German carriage, where there is no seat, but two persons sit astride in the way as persons sit on horseback.

Was any one with them when they went away in this carriage? Nobody else.

No servant? There was none.

Describe what sort of a carriage a charabanc is? There are two seats behind, that two people may sit, and then in the middle of the carriage there is a cushion, upon which people may go astride.

Do you know in what way they sat? Pergami was astride on this cushion, and the princess was sitting properly on the seat.

Cross-examined by Mr. *Williams*.

State the time of which you have been

speaking as well as you can, in what year, and in what month of the year, as nearly as you can tell? The month I think was before Christmas, either November or December.

What year, do you know? I believe it to be the year 1817.

Is not the inn of which you speak the stage at which they changed horses always between Como and Milan? No, where the horses are changed there is no inn; it is merely a post house.

Barlisina is the stage between Como and Milan, is it not? It is.

Upon this occasion, when you describe this German carriage, were there not eight or ten persons in the company of the princess? There were.

Do you know any of them? Her two ladies, who were called dames d'honneur; there was a daughter of the baron, a small girl; there was the mother of the baron, there was a servant, professor Mocatti, there was a captain Vasalli, there was an Englishman whom I did not know, there were some other persons, but whom I do not know; the second time there were thirteen.

Examined by the *Lords*.

Earl of *Lauderdale*.—Was it in the month of December that they dined the first time, or the second time, at the inn? Between the first time and the second time that she dined at the inn, there was a difference of about three weeks.

When you were ordered to quit the room after dinner, when you had seen the baron and the princess together, with the baron's arm on her shoulder, do you know how long they remained in that room? Perhaps they might have been about half an hour, no more.

Do you know whether any body went into the room during the half hour? The servants, no; but there was a second room into which they might go, for there were other people there, and the door was open.

The Witness was directed to withdraw.

The *Lord Chancellor* requested leave to draw the attention of the House to the matter which had been reserved for consideration on Friday last; namely, whether any alterations were necessary to be made in the minutes of that day relative to the questions which had been put upon the contents of certain letters at that time not regularly in proof, and previous to the questions afterwards put to the learned judges upon that day; and his lordship further acquainted the House, that he had been furnished with the following statement of the minutes relative to the above matter, as they now stood upon the minute book, viz.—that nothing appears in the minutes of Friday last, upon the subject of the letters examined to, previous to the objection afterwards taken, and the opinion given by the learned judges on that day, except what relates to two letters afterwards produced and regularly proved; that it does not appear that any question was previously asked as to the third letter, which was afterwards also proved, but not since interrogated to; and that the only further matter that does appear, is merely the questions that were put to the witness upon the letter, of which a line and a half only was shown to her, namely, as to the fact of that letter being her hand-writing; but as to the contents of which no questions were put previously to the opinion so given by the learned judges, nor had any been put relative to that letter since.

Whereupon it was ordered, that the said Minutes do so stand as they now appear in the Minute-book.

Then *Giuseppe Dell' Orto* was called in, and sworn, and examined as follows by the Solicitor General, through the interpretation of the Marchese di Spineto.

What are you by trade? A baker.

Did you serve her royal highness with bread at the Ville d' Este? I did.

Did you serve her with bread before she went upon her long voyage? I did before the voyage she made to Greece.

Do you remember, after her return from Greece, seeing her upon any occasion sitting in the garden? I do.

Was she upon that occasion alone, or was any one with her? Baron Pergami was with her.

Was baron Pergami sitting at the same time? He was.

Did he do any thing? He did.

What did he do? He had an arm round her neck, and was making love to her, and kissed her.

Before he put his arm round her neck, had he got up from the seat? He had got up.

When he got up, did the princess do any thing to him, or to his dress, his coat? She took him by the lappel of his coat, and made him to set down again.

Was it after that that the arm was put round her neck? It was.

Did you ever see the princess in the kitchen at the Villa d' Este? Yes.

Was Pergami there at the same time? He was.

Was there any polenta there? There was.

Did Pergami do any thing with that polenta? He took a little of it.

What did he do with it? Pergami went to her royal highness, and her royal highness told him something in French, and then Pergami put the polenta half into the mouth of her royal highness, and then the remaining half he put into his own mouth.

Did you, some days after this, see the princess in the pantry at the Villa d' Este? Yes.

Was Pergami there at that time? He was.

Did Pergami or the princess do any thing? They were both together.

What did Pergami do? Pergami took a piece of sweetmeat, and put it into the mouth of the princess, and the princess took it.

Have you ever seen the princess on the lake in a canoe? I have.

Who was with her? Pergami.

Were they alone? They were.

Have you seen that once or often? Once I remember, the other I do not remember; it might have been more, or it might have been less, I cannot exactly tell.

Cross-examined by Mr. *Tindal.*

Were you in the service of her royal highness, or did you only bring bread to the house? I served her royal highness with bread, and with bran for the horses.

Were you in her service? I was not.

The Witness was directed to withdraw.

The question being asked of the marchese di Spineto what polenta was, he stated that it was like porridge made of maize, and a favourite dish in Italy.

Then *Giuseppe Guggiari* was called in, and sworn, and examined as follows, by Mr. Parke, through the interpretation of the Marchese di Spineto.

Are you a native of Cernobio? I am.

What busines are you? I am a boatman.

Do you follow your business on the lake of Como? I do.

Do you know the princess of Wales? I do.

Did you ever see the princess of Wales in one of your boats on the lake? I have served her royal highness with the boat of general Pino the first time she arrived, and when she went as far as Domas, which is distant forty miles from Como.

After the princess of Wales lived at the Villa d' Este were you in the habit of carrying her on the lake at any time? Whenever she went in a boat.

Who went with her when you took her? Pergami, and sometimes other gentlemen that came from Como, the vice prefect and the doctor, and amongst others there was the dame d'honneur, the sister of the baron.

Was there a theatre at Como? There is a theatre, and whenever they went to the theatre we carried them in a boat, when they wished to have a boat.

Has Pergami gone with the princess in your boat when they have gone to the theatre? Pergami was with her.

Did you observe any thing done between the princess and Pergami on those occasions? I have seen them kiss.

Have you seen that more than once? About four times.

Did you ever see any thing else on those occasions than kissing? Not in the boat.

In any other place have you seen any thing else between the princess and Pergami? I have seen them whilst they were in the pantry, and they were taking themselves away from the table, to leave the pantry and go up into the room, and lock themselves into the room.

Which room do you mean, when you say they went to lock themselves into the room? In the bed-room of the princess; here [describing it] was the room where they did it, and on the other side there was the room of the princess into which they went and locked themselves.

Were you employed in the house of the princess? I was working in the pantry at five sous a day.

Was that during the time you were working in the pantry that you saw this which you have described? I can swear to have seen them with my own eyes.

Was that during the time that you were in the princess's service? It was.

Cross-examined by Mr. *Wilde.*

Were you examined at Milan? I have been, by Vimercati.

Who took you to Milan? A man of the name of Massareni, of Lugano, took me to Milan.

When did you first mention this, which you saw in the pantry? I have said it before the advocate Vimercati.

Was that the first time? That was the first time in which I have spoken of what I have seen.

Are you quite sure you never mentioned any thing of it to any body, until you saw Vimercati? He asked me whether I had seen something, and I told him I was always there: and he told me, will you have any difficulty to come and speak to a gentleman, and then this advocate Vimercati said, will you have any objection to come with me to Milan; and I told him yes, I have no objection, I will come with you to Milan.

When was that? In the month of January.

In what year? Two years ago; eighteen or nineteen months ago perhaps.

When was it you saw this circumstance in the pantry? In the evening.

How long before you went to Milan? About five or six months before.

Have you a brother of the name of Santino? He is a cousin.

Were you in the boat, at the time you state that you saw Pergami kiss the princess? I was not.

Was a man of the name of Tommaso in the boat? There was.

Any body else? There were ten boatmen.

Name one or two of the ten? I can mention almost all of them.

Mention three or four of them? Tommaso Lago Maggiore, Lorenzo Rogeta, Cristofaro Casino, my brother Giovanni, and one who is dead.

Did you ever tell any body that Vimercati had offered you money for the information you gave? No, because he told me to go to

Milan, where all my expenses would be paid.

You are not asked what Vimercati told you, but whether you have not told other persons that Vimercati had offered you money? No.

Did you ever say you had been promised money by Vimercati? Never.

Did you ever say that any other person had promised you money for the information? No.

You were at work in the pantry? Yes.

Did you go on with your work? Yes, whenever I was there, I went on afterwards with my work.

At the time the princess and Pergami went out of the pantry to the other room, you remained at your work? I went to clear the table.

In the pantry? I went to clear the table from the room in which they had been at dinner, to carry the things down to the pantry.

Do you mean to say that at the time the princess and Pergami left the room, you continued attending to your business? I do.

Re-examined by Mr. *Parke*.

Was the room in which the things were laid out, up stairs or down stairs? Above.

Did the room of the princess communicate with that room? There was only a corridor, where people passed to go to and fro to carry the things.

Examined by the *Lords*.

Earl *Grosvenor*.—How do you know that the princess and Pergami locked themselves into that room? We saw it with our own eyes, for we were there; and we saw them take themselves from the table, and go into the room, and shut themselves in.

Did you hear the key turned in the lock? I did.

Did you attempt to open the door? I did not.

You are sure you heard the key turn in the lock? I am sure, because I heard it; we were there, we saw them pass, and then we went into the room to clear away.

Who was with you in the pantry? Rancatti, my brother, and a certain Giovanni Capella.

Were those persons in the room with you when you heard the key turn in the lock? Yes, always, either the one or the other were there.

At what distance were you when you heard the key turn in the lock? Hardly two paces.

Earl of *Lauderdale*.—Were you in the pantry when you heard the lock turned? I was not.

Were you in the room where they dined when you heard the lock turned? I was not, we had not gone in yet.

Where were you standing when you heard the lock turned? We were standing in the corridor.

Were you in the corridor between the dining-room and the bed-room? Yes.

Earl of *Belmore*.—You are understood to say, that when Pergami kissed the princess in the boat, there were several other boatmen along with you? There were.

Could they have seen that as well as you? Not all could see it, because some were looking and some were not looking.

Could any of them see it? Some of them, if they had been looking, might have seen it; but sometimes they drew the curtains, and then nobody could see it.

Was it done publicly, not with an intention of hiding it? I do not know, I saw them kiss.

When you saw it, were the curtains wide open? They were.

Marquis of *Lansdown*.—Have you at any time had any conversation with any of the boatmen that were in the boat at the time you saw the circumstance you have just alluded to? No.

You never mentioned the circumstance of having seen the kiss, from the time you had seen it, to any person, till you were brought before the advocate Vimercati at Milan? No, I never mentioned it.

Duke of *Hamilton*.—Was any body in the corridor with you when you heard the door of the room locked, as you have stated? There was either my brother or this John Capella.

Can you recollect which? There was either the one or the other, for there was somebody with me every time; we were always two.

Which of them was there at this time? The first time was my brother, and then another time was another; for we were always two.

State the name of your brother? Giovanni.

When this happened, did you ever make any observation to the person who was with you? No; we were in the service; we made our observations, but we made no word of it, for we were attending to our own business.

Ordered, that the further consideration and second reading of the said bill be adjourned to to-morrow morning.

HOUSE OF LORDS,

Tuesday, September 5.

The order of the day being read for the further consideration and second reading of the Bill, intituled, "An Act to deprive her Majesty, &c.", counsel were called in.

Then *Giuseppe Sacchi* was called in, and sworn, and examined as follows by Mr. Attorney General, through the interpretation of the Marchese di Spineto.

Of what country are you? Of Villenchino.

Were you ever in the service of the princess of Wales? I was.

When did you enter into her service? On the 7th of November 1816.

Where was the princess then residing? At the Villa d'Este, on the lake of Como.

How long did you continue in her service? Precisely a year.

What was your situation in her royal highness's service when you first entered it? Courier.

Did you remain in that situation, or did you afterwards fill any other in the princess's service? I was for some months in the same employment of courier, and afterwards I was removed to the office of equerry.

How long did you remain at the Villa d'Este? About six weeks.

Do you know Pergami? I do.

Was he at the Villa d'Este when you entered the princess's service? He was.

Soon after you entered the service of the princess, were you sent by her with any dispatch to the duchess of Parma? I was.

Did you bring back any answer to the princess? I brought another dispatch.

Where was the princess when you brought back the dispatch? At dinner.

Was any one sitting by her at dinner? Pergami.

To whom did you deliver the dispatch? To her royal highness the princess of Wales.

What did she do with it? She read it, and then threw it on the table.

Did any one take it up? Pergami took it up at the time that her royal highness turned herself to me, to inquire after some further information; he took it up and read it, or pretended to read it, without asking permission.

Do you recollect after that being sent to Milan with a letter? I was sent at the beginning of the month of December with a dispatch to the governor Saurau.

Did you receive any directions on your going to Milan, as to bringing back an answer? I was desired by Pergami to make the utmost speed, and bring an answer back during the same night.

Did you return to the Villa d'Este on that night, or on the following morning? I returned immediately after midnight.

Upon your return, where did you go? I dismounted from my horse, I went into the kitchen, where I found a footman, whom I asked where Mr. Pergami was.

In consequence of the answer, where did you go? I mounted the stairs, and went into the anti-room of the apartment of Pergami.

What did you do on going into the anti-room? I found a servant of Pergami asleep; and I went towards Pergami's bed-room, finding the door open, I went in, and saw the bed of Pergami tumbled, but there was nobody in it.

What did you do upon that? I went away, and in going away I heard a noise on the opposite side; and at the same time I heard "Who is there," then I knew that it was the voice of Pergami, to whom I answered, that it was the courier returned from Milan; Pergami told me that there was no such necessity to give him this answer.

How was Pergami dressed at that time? In his dressing gown.

Did you perceive what he had on under his dressing gown? I saw only about his breast, which was unbuttoned or untied; and I saw nothing else but his shirt.

In what place was it that you saw Pergami? I saw him in a room where there was a door opposite to the door of his room.

Did you see where Pergami came from? I could not see it on account of the darkness.

Where did that door lead to, which you have mentioned, which was opposite Pergami's room? It led into more rooms.

Who occupied those rooms? No one.

Do you know what room was beyond those rooms; do you know where the princess slept? I do not.

Do you know where the princess's bed-room was? I do not.

Whilst you were at the Villa d'Este have you ever seen the princess and Pergami together? Several times.

Where have you seen them together? I have seen them walking through the court and the garden.

How were they walking together? Arm in arm.

Whilst you were at the Villa d'Este, do you recollect carrying any letter to general Pino? I do.

Did you bring back any answer from general Pino? I brought a verbal answer.

To whom did you deliver that verbal answer; did you deliver it to the princess? I did.

Where was the princess when you delivered that answer? In her own antichamber.

Whereabouts was that antichamber? Immediately after mounting the stairs, by turning on the left, there was a corridor, and by turning again on the left hand through this corridor, after a few paces, there was on the left the antichamber of her royal highness.

Was that antichamber of her royal highness near the place where you saw Pergami, or where was it? It was near the place where I saw Pergami.

Do you mean when you saw Pergami at night, on your return from Milan? I do.

How near? On the same corridor there was, on the right, and more particularly opposite to the door of her royal highness, a door which led into a room, which room led into another, where I saw Pergami.

You say that the princess used to walk arm in arm with Pergami; what expressions did she use in addressing him? Familiar expressions, confidential.

What were they, do you recollect? I have heard her call him sometimes by the expression, "mon ange," "mon amour," "mon cœur,"—my angel—my love—my life.

Do you remember the princess going to Turin? I do.

Did you go with her? I did.

Where did they go to at Turin, to what inn? To the inn, The Universe.

Did you go before the princess to Turin? I went before her the last stage.

Did you make any arrangement of the rooms at that inn, for the accommodation of the princess and her suite? Yes; it was arranged between me and the innkeeper, to give to her royal highness the best apartment, and to the dame d'honneur, and also to the femme de chambre, and to the gentlemen I allotted another apartment quite separate from the rest

Did that arrangement continue, or was it altered? At the arrival of the princess and Pergami I showed to them the distribution I had made, but it did not meet with the approbation of her royal highness, or of Pergami, and the apartment which I had destined for the gentlemen, was dedicated to her royal highness, to the dame d'honneur, to signor Pergami, and to the femme de chambre

How near was the chamber of Pergami upon this alteration to that of the princess? Between the room of her royal highness, and that of Pergami there was the room where the countess Oldi slept.

Was there any communication from Pergami's room, through the chamber of the countess Oldi, with that of the princess? There was a mutual communication.

How long did they remain at Turin? About six days, I do not know exactly.

Do you remember going with the princess and Pergami to the Barona? I do.

Whilst they were at the Barona, were any balls given there by the princess? Many balls.

What description of persons attended those balls? At the beginning, besides the persons in the suite of her royal highness, there came also some people of distinction; but in these balls were introduced people of all ranks, and both sexes, and even a very low condition; and as between some of the suite of her royal highness and these low women there was some freedom, thus those people of distinction were no longer seen.

What sort of freedom, what do you mean by freedom? Those persons took those women out from the ball-room, and made them go out at their pleasure and will, (alcune persone) some persons, (prendevano queste donne) took these women (e le facevano sortire dalla sala di ballo) and made them go out from the ball-room, (a loro piacere) according to their pleasure, (e volontà) and will.

Did the princess know this?

Mr. *Denman* objected to the question.

The counsel were informed, that they had better ask what the witness saw

Have you heard the princess say any thing at those balls, upon those persons going out or coming in? I have not

Did you hear the princess say any thing, or did any conversation take place between the princess and yourself, respecting any of those females who were at the balls? One day whilst I was in the court, and her royal highness and Pergami were there, the princess told me these precise words,—she said that she wished to make a present to some of those girls, and then she asked me, "How can we dress these young virgins (vergenelli) Mr Sacchi?" then she asked me, "Do you believe they are such?" I answered, that as far as I was concerned, I believed them to be (oneste) modest girls, and I had nothing to say against them; her royal highness said to me, "I know, you rogue, that you have gone to bed with three of them, and how many times you have had intercourse with them" I being surprised at this compliment, endeavoured to persuade her royal highness, that she was deceived, and Pergami, who was present, began to laugh and to cry aloud, "It is true, it is true, it is true."

Mr. *Brougham* (to the Interpreter.) Is there any other word in Italian but vergini and verginelli for maids and little maids? No, maids and virgins are expressed by the same word, vergini or verginelli.

Mr *Attorney-General*.—You have said that the princess stated, that she was about to make a present to some of those girls, did you learn from her to which of those girls this present was intended to be made? No

Have you seen the princess at those balls in the same rooms with those persons of low description, and girls who came there? Several times.

Did the princess join in the dancing? Sometimes.

Have you, on any of these occasions, heard the princess make any other remark upon those women, or upon their conduct? When one of those women came by day-time to the house of her royal highness, and when she was seen by her royal highness, she pointed her out by her finger and laughed; and on such an occasion once she exclaimed, how much the population of Barona must increase.

Did you accompany the princess in her tour through Germany? I did.

In the course of that journey, do you remember Pergami's purchasing a carriage calculated to carry two persons? I do

After that carriage was purchased, who used to travel in it? During the night and during the days, bad weather, it was for my use.

Did the princess ever travel in it herself? Yes, during the days of fair weather, many times she travelled in this carriage with Pergami.

Do you remember on any occasion, when the princess and Pergami were travelling in that carriage, their going on before you? I remember that one day whilst they had remained at a place whose name I forget, her royal highness and Pergami set out suddenly in this small carriage, for I was not in time to follow them, as I was obliged to see about

getting the other carriages ready, and having followed them as soon as I could, and making the most haste, I could not overtake them till they had arrived at the first stage.

When you arrived at that place, did you see the princess and Pergami any where? I asked about them, and I was pointed to a room in the first floor.

Did you go to that room? I went and knocking at the door, I inquired whether I could enter; Pergami answered me to come in, as I did; after I had entered, I saw her royal highness and Pergami upon the bed, but I must observe that they were decently dressed, and at a distance from each other.

How were they placed upon the bed; how were they sitting or lying on the bed? They were lying on the bed as far as the middle, and the back was supported against the wall.

In the course of that journey did you stop at any inn at which there were any English persons? I do not know.

Had you received any directions from any person on the subject of the English? I remember that when I preceded her royal highness on the road to Munich, she told me that the first thing in settling for lodgings was to inquire whether there were any English; I was to inquire after his rank, and to go somewhere else for the lodgings of her royal highness.

In the course of that journey what was the general disposition of the bed-rooms of Pergami and her royal highness? I continued to distribute the lodgings as far as Carlsruhe, but when we arrived at Carlsruhe, there having happened the same thing that had happened at Turin, that is to say, the change of the bed-rooms, I did not meddle with it any more during the rest of the journey, leaving to her royal highness and Pergami to choose what rooms they liked best.

What was the disposition of the rooms of the princess and of Pergami during that journey, as far as you know? Generally they were as near as possible.

In the course of that journey did you go to Monte Falcone? Setting out from Trieste, we went to Monte Falcone.

At what time of day did you arrive at Monte Falcone? We arrived when it was already night.

Where did the princess and Pergami go upon their arrival at Monte Falcone? As we had been overtaken by a violent storm, and by a great darkness, we were obliged to stop at a miserable inn.

Where did the princess and Pergami go at that inn, into what room? They mounted the stairs, and went into a room where there was a bed.

Did they remain in that room alone? They remained alone till the rest of the suite arrived.

How long was it that they remained alone in that room? Between an hour and an hour and a half.

After that journey did you return to Milan, to La Barona? We did.

From the Barona did you go to Rome? Yes.

In your way to Rome, did you stop at a place called Savignano? Yes.

Was the princess ill at Savignano? She was overtaken by violent pain.

Did you yourself see who attended upon the princess upon that occasion? Pergami and the countess Oldi.

Do you know whether any medicine or any applications, were given to the princess on that occasion? I do not know whether they were intended for her royal highness, but I saw Pergami and the countess Oldi make some cloths hot.

Did you see where Pergami and the dame d'honneur carried those hot cloths? As those cloths were made warm, Pergami as well as the countess carried them into the room where was her royal highness.

Did you go to Ancona? Yes.

At Ancona, do you know the situation of the princess's bed-room with respect to Pergami's? One day I was called by Mr. Pergami, whilst he, Pergami, was still in bed, and whilst he was speaking to me, there was a door open which led into another room.

Was the door open when you went into Pergami's room, or was it opened whilst you were there? The door was open when I went into Pergami's room.

Do you know into what room that door opened? Another room, which I believe was that of her royal highness.

Why do you believe that was her royal highness's room?

Mr. Denman objected to the question.

The Attorney General was heard in support of the question.

Mr. Denman was heard in reply.

The counsel were informed, that the proper question would be, whether he knew that that was the princess's bed-room?

Mr. *Attorney General*.—Do you know whether that was the princess's bed-room into which that door opened? I cannot say it with certainty.

What did you see in that room, when the door was open? I saw some things belonging to her royal highness; as for instance, the boxes belonging to her toilet.

Did you see the bed in that room into which the door opened? There was one.

Did you afterwards go to Ruffinelli? We did.

At that place was Pergami ill, and confined to his bed? He was.

Had you occasion, during Pergami's illness, to go to his room at night? One evening that I was going to visit him, when I was at the door, which I found by a third part open, I saw Pergami in bed.

About what hour was that? About eleven o'clock at night.

You say you saw Pergami in bed; did you see any body else in the room? There was also her royal highness.

Where was her royal highness? She was by the side of the bed, stretched on a sofa.

Could you see what was on the sofa? There were some cushions.

Upon seeing the princess in that situation, did you go into the room, or did you turn back? I quitted the room immediately.

From Ruffinelli did you go to the villa Brandi? We did.

In what part of the house did you sleep at the Villa Brandi? I slept in the wing of the house, on the left of the entrance door.

Do you know where Pergami slept at the Villa Brandi? He slept on the right hand, exactly opposite to my room.

Do you know where the princess slept? Her royal highness also slept on the same side of the house on which Pergami slept.

Do you remember at any time at the Villa Brandi, after the people of the court were gone to bed, seeing Pergami any where? I remember one night after midnight, whilst it was insufferably hot, that nobody could sleep, I was at the window of my room, and as I heard a noise on the side of the room of Pergami, I withdrew a little; I saw Pergami come out from his room and go to the door which led into the apartment of her royal highness; he opened the door, entered, and I saw him come out no more.

How long did you remain at the window after you saw Pergami go in the manner you have described? About an hour.

On any other night did you see Pergami? A few days after I saw the same thing.

At what time was it that you saw Pergami the second time? Nearly about the same hour as the first.

Did you, upon that second occasion, see Pergami return to his room? I did not.

How long were you at your window the second time when you saw Pergami go, and during which you did not see him return? About a quarter of an hour.

Whilst you were at the Villa Brandi, did you see any busts? I saw two.

Of whom were they, the busts, whom did they represent? I was told that one was for her royal highness and the other for Pergami.

You are not asked what you were told, but whose likenesses did they appear to you to be? One represented her royal highness, the other Pergami.

Where was it you saw those busts? I saw them in the room of Pergami.

At the Villa Brandi, or where? At the Villa Brandi.

Were the busts of the same size with each other? Nearly.

In what month was it that you saw Pergami going, as you say, at night from his room? The month of July.

Did the princess go from Rome to Senegaglia? She did.

Did she travel by night or by day from Rome to Senegaglia? She travelled always by night.

Was it very hot weather at that time? It was very hot.

In going from Rome to Senegaglia, did you go to the carriage in which the princess was? Always by the side of it.

Were there curtains round the princess's carriage? There were.

Did you at any time go to the carriage and draw away the curtains for any purpose? Several times.

For what purpose; what was the occasion of your doing that? Every morning when day appeared I went near to the carriage to ask her royal highness whether she wanted any thing.

Who travelled in that carriage with her royal highness? Mr. Pergami, and sometimes there was the countess Oldi, or the little girl of Pergami.

Upon any occasion when you have gone for this purpose, have you observed in what situation the princess and Pergami were? It has happened to me two or three times to have found them both asleep, and having their respective hands one upon another.

Describe in what way, one upon another? Her royal highness held her hand upon the private part of Mr. Pergami, and Pergami held his own upon that of her royal highness.

Did you observe on any of those occasions the state of Pergami's breeches? Once I saw that Pergami had his breeches loosened from the braces, that he had the front part of his breeches, the flap, half-unbuttoned.

Upon that occasion did you observe where the princess's hand was? One hand was upon that part.

Was any one in the carriage besides Pergami, at that time? I do not remember.

Did you say that they were asleep at that time? I did.

Did you, in going from Rome to Senegaglia, see any thing else pass between the princess and Pergami? I saw once her royal highness kiss the neck of Pergami.

Did you afterwards go to Pesaro? We did.

During the time that the princess was at Pesaro, did Pergami, go away for any time? He went to Bologna, where he remained for two days.

Upon the return did the princess go to meet him? Her royal highness went to meet him with a part of her suite.

Did she meet him? Her royal highness met him near Catolica.

When they met each other, did you observe what was done by them? When they met they each dismounted from their respective carriages; they met and embraced, and kissed each other.

Did they then return to Pesaro? They did.

Did they return in the same carriage, or in different carriages? In the same carriage.

Did Pergami use to dine with the princess at Pesaro, and before? I do not know, because I was never present when they were at dinner

Do you know were Pergami's mother and brother Louis dined? When they entered the service they dined in a room by themselves

Did any alteration take place in their dining whilst you were at Pesaro? I do not know.

At the time you were at the Villa d'Este, did any persons of distinction visit her royal highness? Once I saw General Pino

Did you see any other persons of distinction there? I do not remember

Was there a person of the name of Verona in the princess's service? There was.

What was he? A servant

In what capacity? Like any other servant in the house, he waited at table

Do you know what he had been before he came into the princess's service? I never knew what his employment had been before.

Have you ever heard Pergami converse with the princess about Verona? I do not remember.

Cross-examined by Mr. *Brougham*.

You do not understand English at all, it is taken for granted? No.

Not at all? Not at all.

How long have you been in this country? About fourteen months.

Where have you lived all that time? Sometimes in London, sometimes in the country.

Your name is Sacchini, is it not? Sacchi.

Did you ever go under the name of Sacchini? All at Milan called me Sacchini, which is a diminutive.

But whilst you were in this country the people called you neither Sacchi nor Sacchini; they called you Milani, did they not? It is true

You have always gone by the name of Milani in this country? It is true

Whom did you live with at Stevenage; did not you live at Stevenage? Some time

How long did you live at Stevenange? I never lived at Stevenage

Where did you live when you were in the country? Aston.

How far is Aston from Stevenage? Four miles

Whom did you live with there? In the house of the rev. Philip Godfrey

Have you seen Mr. Godfrey in town lately? Once.

After you left the princess, where did you go to live first? I went to Milan.

Did you go into any other service there? I did not.

How long did you remain out of place? Always.

You have never been in any other service since? Never.

When were you first examined at Milan upon this business? In the month of November of the year 1818

Was that the first time that you told this story to the persons at Milan? No, I have said it at other times

When was the first time you were examined upon the subject? In November 1818

Whom had you told it to before that? To different people.

Name one of them? I do not remember any of them.

Who asked you to go to be examined at Milan in 1818? A messenger sent to me by the advocate Vimercati.

Whom did you see with Vimercati when you went to him? No one else but Vimercati

Did he then examine you? No, it was not that time

When did he examine you? After about a fortnight

Whom did you see then, when you were examined? I saw the advocate Vimercati and the advocate Powell, colonel Brown, and another gentleman called Cooke.

Did they take down what you said in writing? They did

Did they swear you to it, did they make you take an oath? At Milan I never took an oath.

Where did you take the oath then? In London.

Was it at Mr. Powell's chambers you took the oath? Just so.

In what way were you living and supporting yourself at Milan at the time that they sent for you? I have always had means of my own to support myself.

What wages had you as courier to her royal highness? There never were any wages settled to me.

Do you mean that you served as a volunteer without wages? No, I have received something, but there was no fixed salary

How much did you receive the first half year that you were courier? I have received three times money during the time I have been in the service of her royal highness, making all together the sum of sixty or seventy Napoleons.

How much did you receive of that sixty or seventy Napoleons during the time that you acted as courier only to her royal highness? I do not remember.

How long did you serve as courier of the year that you were there? About nine months.

Who hired you for her royal highness? I entered into her royal highness's service through the good offices of the banker Cerani, the baron Cavaletti, and Pergami.

Do you mean to represent, that when you went to her royal highness you were in easy circumstances? I have always been, thank God, in easy circumstances.

Were you as well dressed the day you went to her royal highness to be hired as you are now? I have always been dressed equally.

You were called count Milani here, when you were introduced to Mr. Marrietti, were you not? I do not know.

Do you mean to swear you do not know whether you were introduced to Mr. Marrietti here in London as count Milani, or not? I have sworn to say the truth, and to say the truth alone, and I swear that I do not know that I was introduced to Mr. Marrietti as count Milani.

Do you mean to swear that you never were called count Milani in your own hearing in Mr. Marrietti's hearing here in London? I am sure that I never heard myself called count.

Do you mean to swear you never heard yourself called count at Aston, where you lived with Mr. Godfrey? I am sure I never heard myself called count at Aston.

Will you also swear that you did not introduce yourself to Mr. Marrietti as a merchant? Never.

That you never stated that you came over to this country for commercial purposes? No, I have always said, that I had come in the service of a Spanish family.

In the service of what Spanish family did you come over?

The *Attorney General* objected to the question, as assuming that the witness had come over in the service of a Spanish family, and that the witness had not so stated.

Mr. *Brougham*.—Is it true, or not true, that you came over to this country in the service of a Spanish family? It is not true.

Did you not represent to Mr. Marrietti, or to some person in his family here, that the princess owed you money? I said that I had a law suit, a process with her royal highness, but I never said that she owed me money.

Was it true or not that you had a law suit with her royal highness? I meant to say, that I was in the process which was making against her royal highness.

Did you mean to tell Mr. Marrietti's family, that you were one of the witnesses against her royal highness? No.

Was it a double entendre, then, that you used in speaking to Mr. Marrietti? I never spoke of that with Mr. Marrietti.

With whomsoever you have spoken of that which you represented, namely, that you had a law suit, did you use that expression as a double entendre to that person?

The *Attorney General* objected to this question. The witness had not said that he used a double entendre, and his learned friend had no right to ask any question as to what passed in the witness's mind.

Mr. *Brougham* said, his learned friend had just laid down a new rule of evidence in respect to cross-examination. He was ready to argue this point, if their lordships did not think it a waste of time. In the first place, the witness had stated himself to have represented to some person, that he had a law suit with her royal highness, but upon being further questioned upon this point, he admitted that he was not a party, but a witness in this process. Now, was it not manifest that he had a right to ask the witness this question, for the purpose of explaining his own answer? When was it ever heard of, that a counsel had not a right to assume a fact, for the purpose of trying the credit of a witness, not merely with reference to facts, but as to what passed in the mind of the witness? One of the commonest questions asked in cross-examination was, whether such was not the witness's belief or expectation? He was aware, that in the examination in chief, a witness could not be questioned as to his belief except in the single instance of proving a handwriting; but every day's experience showed that this was not the usual course in cross-examination. If their lordships were satisfied that he might put questions as to the belief of the witness, it was no less clear, that he might put them as to what passed in the witness's mind. If it were necessary to cite authorities to prove this, he need only appeal to the case of the duchess of Kingston. Upon the cross-examination of Judith Phillips in that case, questions were repeatedly put to her, as to her belief and expectation. She was repeatedly asked by Mr. Mansfield, who, though he was at that time only practising at the bar, their lordships would admit to be no inconsiderable authority, whether she did not believe and expect that she would receive certain sums of money? These questions were put by Mr. Mansfield, and not objected to by their lordships. This mode of putting questions was allowed even on the re-examination of witnesses, which was a sort of examination in chief, and upon the re-examination of Demont, his learned friend had repeatedly questioned her as to what passed in her mind at the time.

The Counsel were informed, that, in the opinion of the House, the question could not have been put in the first instance if it had been objected to, but that the witness had already answered the question, adopting the expression "double entendre."

The question was proposed to the witness.

Yes, as a double entendre.

Did you ever disclose to Mr. Marrietti, or, any of his family, that you were one of the witnesses against her royal highness? I told it to Mr. Marrietti after I returned from Aston.

How long ago is that? About two months ago.

Did you not at that time know that Mr. Marrietti's family had discovered who you were? I do not know.

Do you mean to swear that you did not know at the time you told him who you were, that they already knew who you were? Who I was as a witness, do you mean?

Your name in the first instance, that they had found out your real name? Yes, because I have mentioned it to some persons much before.

But not to any of the Marrietti family? I told my real name to one of the brothers of Marrietti, who was in Aston with me.

When was it that you so told your name to one of the Marrietti's? After I have been at Aston a few months.

How long ago is it, how far back? Seven or eight months.

To whom was it you told your name, and who you were, two months ago? Two months ago, I do not remember.

Did the gentleman of Mr. Marrietti's family, to whom you disclosed who you were, ever see you afterwards? It is some time since he has set out for Milan.

Have you ever been in Mr. Marrietti's house since you mentioned this to the gentleman, who has gone to Milan? Several times.

When was the last time you were there, to make a visit? Three or four months.

Did they then know that you were Milani or Sacchi? The brother who has set out for Milan knew that I was Sacchi; the others I do not know.

Did the other call you Sacchi the last day you were there visiting? Never.

Did you tell the family of Mr. Godfrey, at Aston, that you were Sacchi or Milani, the last time you were there? I said I was Sacchi.

Did you tell them you were one of the witness too? I did not say it myself, but I caused it to be told.

By whom did you cause this to be communicated to the family? By a Mr. Sperati.

Who is Mr. Sperati? A Milanese gentleman, whom I have known in the house of Marrietti.

Is he not a near relation of Mr. Marrietti's? I have heard he is a cousin.

What was the first time that Sperati knew who you really were? It was one day he came to Aston to pay me a visit, and I told him who I was.

How long is that? Seven or eight months ago.

You will swear that it was at least seven months? About seven months.

Did you ever make application to be taken back into the service of her royal highness? I do not remember.

Did you ever represent, after you had left the service of her royal highness, that you were in a destitute condition? Never.

Did you ever intreat any person of her royal highness's household to have compassion on your dreadful situation, after you had left her royal highness? I have never been in a dreadful situation.

Will you swear that you never entreated any one of the suite of her royal highness to take pity, or to take compassion on you, after you had left her? On what account to have pity; on what account to have compassion?

Will you swear that you never entreated any one of the suite of her royal highness, after you had left her service, to have pity on you, or to take compassion on your situation? It may be.

Did you ever represent to any person, after you left her royal highness's service, that you taxed yourself with ingratitude towards a generous mistress?

The Attorney General submitted that the question should be put, whether he had so represented himself in conversation, for that if the representation was in writing, the writing itself must be produced before the question could be put.

Mr. *Brougham* contended, that the limits of a cross-examination were much more extensive than an examination in chief. He had a right to put the question in the way he had done. He had a right to ask the witness if he had represented so and so, without stating whether it was in a written instrument or in a conversation. And further, the only time in which the opposite counsel could take an exception, was, if the witness had said it was in writing. He trusted their lordships would not adopt a course, the consequences of which would be, to prevent all the benefits of a cross-examination.

Mr. *Denman.*—In all the books of law that I have seen—in all the trials that I have read, and in all the practice that I have known, I never knew such an interposition as that of the attorney-general. To furnish a witness with an excuse for not answering a question, which only put his credit to the test in a legitimate way, if permitted, must prevent the detection of every conspiracy. I dare the attorney-general to state a single case, to quote a single instance, in which this has been permitted. It may screen a witness from the detection of his frauds and perjuries; it may, for the moment, prevent his being proved totally disqualified to give evidence. It can be of no other use, nor used for any other purpose, than to prevent the eliciting of truth. What! shall we not put a witness, whom we know to be infamous, to the severest examination, without declaring to him the means we have of proving him so? It is a little too much, to be told that a letter written on a former occasion, which directly contradicts the evidence he now gives, must be produced,

before we can put any question to him that may tend to prove his perjury by other means. If we are bound first to show the letter, he may give his own explanation, say it was a *double entendre*, or escape by some other means. The learned counsel concluded by declaring, that no power on earth, not even that court, much less the persons charged with producing this perjured witness, had a right to dictate the manner in which a question should be put to his own witness. He demanded, on the part of the profession to which he belonged, and on the part of the public, that their lordships should pause before they gave a doctrine so monstrous the sanction of their high authority.

The *Attorney General* complained warmly of the term of "perjured witness" applied to the individual under examination.

Mr. *Denman* owned that it was improper, and begged leave to retract it.

Mr. *Brougham*.—It was used purely hypothetically.

The *Attorney General* resumed—The opposite counsel had no right to do circuitously what they could not do directly—they admitted that their object was, to get the witness to declare as to the contents of some written document that was in their possession, and which they might afterwards produce in contradiction of his testimony.

Mr. *Brougham*.—I admitted no such thing [Order, order!].

Mr. *Brougham*.—My lords, we have a right to correct any misrepresentation or misconception of our words. The privilege of explanation belongs to us [Order, order!].

Mr. *Brougham*, with peculiar energy—My lords, I have a right to do so [cries of Order, order!].

Mr. *Brougham*, with increased energy—"I have a right to do so" [renewed cries of Order, order! with much murmuring among the lords].

Mr. *Brougham*, with considerable elevation of tone and vehemence of manner—"I have a right to do so." [Here the cries of Order, order! became still louder, and the counsel were desired to withdraw.]

Lord *Redesdale* thought the counsel had no right to interrupt each other. When one had done, the other had a right to question and explain; but to allow interference and explanations in the middle of an argument would introduce the greatest disorder. Such interruption ought not to be allowed, and could not be insisted upon as matter of right.

The Counsel being recalled,

The *Lord Chancellor* said, that he had it in command from the House to state to the counsel, that they must not interrupt each other while speaking, but reserve any corrections or explanations they had to make till their opponent had finished.

The *Attorney General* resumed. He was as anxious, he declared, as any man to avoid misrepresentation; but he contended, that he was correct in his argument as to the tendency of the doctrine laid down by his learned friends; for that doctrine, if acted upon, might lead to the admission of illegal evidence; as any evidence founded upon a written document could not be received while the best evidence, namely, the written document itself, was forthcoming. His opinion, indeed, on this subject was sustained by the recent decision of the House itself; and if this decision were allowed to be evaded, their lordships might be again in the situation in which they were placed previous to that decision, by having illegal evidence inserted upon their minutes. The learned gentleman concluded with pressing his objection to a question so likely to lead to illegal evidence as that referred to, stating, that if the question were only, whether the witness had made any parole representations to the effect mentioned, it would be quite unobjectionable, while his friends would still be at liberty to adduce any written representation which they might have in their possession, in contradiction to the depositions of the witness.

The *Lord Chancellor* thought, that the former decision of the judges, as to the production of letters, did not amount to a decision of the propriety of putting the present question; and, with the leave of the House, he would put a question to the judges, which he should the rather do, as nothing was more important than that the House should be fully acquainted with the mode of its proceeding. He meant no unfounded compliment to Mr. Williams, but he must say that, the other day, he had extremely well argued this point: considering, however, the present as additional argument to what was then offered, he was most desirous to refer to the Judges this Question—

"Whether, according to the established practice in the courts below, counsel cross-examining are entitled, if the counsel on the

other side object to it, to ask a witness whether he has made representations of a particular nature, not specifying in his question whether the question refers to representations in writing or in words?"

The Question was delivered to the lord chief justice, and the learned Judges requested leave to withdraw.

Lord *Kenyon* thought it right to take this opportunity of making a motion, without giving any notice. It was desirable that that House and the country should be informed whether every due facility, in pecuniary supplies as well as in other respects, were afforded to the Queen for the preparation of her defence. The House had heard with satisfaction, from the noble head of the administration, that means had been taken, on the part of his majesty's government, to enable the Queen's advocates to collect any evidence which they might deem it desirable to adduce. But still, for the complete satisfaction of the House and the country, he felt it necessary to move for copies of all communications which had taken place between the Queen or her advisers and his majesty's government since the arrival of her Majesty in this country in June last; and also for an account of all sums of money advanced by government for the use of her Majesty within that period.

The Earl of *Liverpool* complained of the irregularity of making a motion of this nature, without previous notice, which was agreeable to the practice of the House, or that kind of communication to himself or his colleagues, which was the usual courtesy of noble lords. But this motion was the more to be deprecated, as it referred to circumstances to give publicity to which would be contrary to common decency. Besides, no complaint was made, nor could he suppose that any dissatisfaction was felt, on the part of her majesty's advisers, as to the conduct of the king's government, in affording every facility necessary for her majesty's defence, in the means of collecting evidence, or in the advance of unlimited pecuniary supplies. Upon what ground, then, should such a motion be pressed? While on his own part and that of his colleagues, he could have no personal objection to let all that had passed on this subject go forth to the public, yet as there was no necessity whatever for such a motion, he hoped the House would not assent to it, without due consideration. If the noble lord meant to persist in this motion, he hoped he would give notice of it for to-morrow.

Lord *Holland* thought, that when the noble earl said that unlimited sums of money were advanced, it was the duty of their lordships to inquire from what source such sums were drawn, and who were to be accountable for them?

The Earl of *Liverpool* said, that when he mentioned unlimited sums, he meant it to be understood that these sums were advanced under proper securities.

Lord *Kenyon* expressed his surprise to hear any noble lord ascribe to him any disposition to propose a proceeding contrary to common decency, and he was the more surprised at such an imputation, considering the quarter from whence it came. With respect to the motion he had submitted, he had made a previous communication of his purpose to some of the noble earl's colleagues, and that he supposed a sufficient intimation to the government; and as to his bringing it forward without any previous notice to the House, that was owing to the circumstances of the case; for understanding, since he came into the House, that the evidence on the part of the advocates for the bill would close this day, he considered it of the greatest importance, that an immediate opportunity should be taken of satisfying their lordships and the public, that every means and facility were afforded to her majesty, that could be deemed necessary for the preparation of her defence. But, understanding that the case on the part of the prosecution would not close so soon as he was led to expect, and being quite unwilling to take any noble lord by surprise, he should, with leave of the House, withdraw his motion, and give notice of it for to-morrow.

After a short time, the learned Judges returned.

Lord Chief Justice *Abbott*.—My lords, the judges have conferred upon the question proposed to them by your lordships, "Whether, according to the established practice in the courts below, counsel cross-examining are intitled, the counsel on the other side objecting to it, to ask a witness whether he has made representations of any particular nature, not specifying in the question whether his question refers to representations in writing or in words."

My lords, the judges find a difficulty to give a distinct answer to the question thus proposed by your lordships, either in the affirmative or the negative, inasmuch as we are not aware that there is in the courts below any

established practice which we can state to your lordships as distinctly referring to such a question propounded by counsel on cross-examination as is here contained, that is, whether the counsel cross-examining are entitled to ask the witness whether he has made such representation, for it is not in the recollection of any one of us that such a question in those words, namely, whether a witness has made such and such representation, has at any time been asked of a witness; questions however of a similar nature are frequently asked at Nisi Prius, referring rather to contracts and agreements, or to supposed contracts and agreements, than to declarations of the witness; as for instance, a witness is often asked whether there is an agreement for a certain price for a certain article, an agreement for a certain definite time, a warranty, or other matter of that kind, being a matter of contract; and when a question of that kind has been asked at Nisi Prius, the ordinary course has been for the counsel on the other side not to object to the question as a question that could not properly be put, but to interpose on his own behalf another intermediate question, namely, to ask the witness whether the agreement referred to in the question originally proposed by the counsel on the other side, was or was not in writing; and if the witness answers that it was in writing, then the inquiry is stopped, because the writing must be itself produced.

My lords, therefore, although we cannot answer your lordships question distinctly in the affirmative or the negative, for the reason I have given, namely, the want of an established practice referring to such a question by counsel; yet as we are all of opinion, that the witness cannot properly be asked on cross-examination whether he has written such a thing (the proper course being to put the writing into his hands, and ask him whether it be his writing); considering the question proposed to us by your lordships with reference to that principle of law which requires the writing itself to be produced, and with reference to the course that ordinarily takes place on questions relating to contracts, or agreements; we each of us think, that if such a question were propounded before us at Nisi Prius and objected to, we should direct the counsel to separate the question into its parts.

My lords, I find I have not expressed myself with the clearness I had wished, as to dividing the question into parts, I beg therefore to inform the House, that by dividing the question into parts, I mean that the counsel would be directed to ask whether the representation had been made in writing or by words. If he should ask whether it had been made in writing, the counsel on the other side would object to the question; if he should ask whether it had been made by words, that is, whether the witness had said so or so, the counsel would undoubtedly have a right to put that question, and probably no objection would be made to it.

The Counsel were called in, and were informed that if, on cross-examination, they inquired of a witness whether he had made representations of any particular nature, stating the nature of those representations, they should, in their inquiries, ask the witness first, "Whether he made the representations by parol, or in writing."

Mr. Brougham inquired, whether he was to understand, before he had asked, whether the witness made any representations, he was to ask whether it was in writing.

The Counsel was informed, that he might put the question referring, in the mode of putting it, to a representation by parole; or that where a question of that kind was put, the counsel on the other side was justified by the practice in breaking in upon the course of the cross-examination, so far as to put the question, whether the declaration, if made, was by parol or in writing.

Earl *Grey* observed, that if counsel went to particulars, it must first be ascertained whether the representation had been parole or written. Might not a general question be put as to the fact of any representation whatever having been made, without going into any details, until it should be understood from the answer to that question how the matter stood?

The Earl of *Liverpool* had no objection to such a general question; but he had understood the learned judges to state, that the question, as submitted to them, could not be asked generally, but must be divided into two; that it must be first asked, whether any representation had been made in writing? and that, if an answer were given in the affirmative, then the inquiry must cease; but that, if the answer was in the negative, the witness might then be asked if he had made any parole representation? and, if he answered in the affirmative, that the particulars of such parole representation might be inquired into.

Earl *Grey* observed, that the witnesses had been over and over again asked if any promises had been made to them? To such questions no objection had been made, until it was ascertained whether those promises had been made in writing or not. It appeared to him that the present question came within the principle on which the questions respecting supposed promises proceeded; and that a general question might be put, in the first instance, avoiding details.

Lord *Erskine* remarked, that a counsel had a right to ask a witness whether any promise had been made to him. If the

answer were in the affirmative, and if the counsel were about to inquire into the particulars of that promise, the counsel on the opposite side might interfere and inquire whether or not the promise was in writing; in which case no further question could be put about it. Such appeared to him to be the principle which should be observed with reference to the question under their lordships' consideration.

The *Lord Chancellor* confirmed the statement of his noble and learned friend. Such was invariably the practice when he attended in the courts below.

Mr. Brougham begged to know, whether he might be at liberty to alter his question, and to put it, "Did you ever make any representation in writing concerning your real or supposed ingratitude towards so generous a mistress as her royal highness?"

The Counsel were directed to withdraw.

The Earl of *Donoughmore* observed, that on all former occasions, when a question had been referred by their lordships to the judges, the opinion of the judges had been declared to the counsel at the bar as the opinion of the court. He was not aware why there should be any departure from that practice in the present instance. He did not want the question before their lordships to be settled by any kind of accommodation, he wanted it to be settled according to law. What he proposed, therefore, was, that the subject should be submitted to the reconsideration of the judges.

The *Lord Chancellor* said, that if, from the imperfect and insufficient character of the question that had already been submitted to the judges, they had found it impossible to give to that question a direct answer, it might be advisable to amend the question before it was again referred to them.

The Counsel were called in, and the counsel for the Queen were asked, whether they wished to withdraw the question.

Mr. Brougham stated, that he earnestly begged to withdraw the question, to save the necessity for farther discussion.

The Witness was again called in.

Mr. *Brougham*.—Did you ever say to any person that your conduct towards her royal highness was liable to the charge of ingratitude with respect to a generous benefactress? Never.

Is that your hand-writing? [A letter being put into the hands of the witness.] It is.

Is that your hand-writing? [Another letter being put into the hands of the witness.] It is.

Is that? [Another letter being put into the hands of the witness.] It is. [The letters were delivered in, and marked by the clerk assistant.]

Were you ever called by any other name than Milani, Sacchi, and Sacchini? I have been called by another name, and I am still called.

What is that other name? I beg, as a favour from the House, that I may not be obliged to state that; if I should tell what name I go by, I might be exposed to the fury of some person that is ill-intentioned. I beg, as a favour, that the House would interpose their authority that such a question, and such an answer, should not be inserted in the public papers.

Did you ever go by any other name than that while you were abroad in Italy? I do not remember to have ever been called by any other name.

Did you ever make use of any other name while you were in Italy, for the purpose of corresponding with other persons? I do not remember.

Have you ever been in Switzerland? Many times.

Were you ever at Morge? I have.

Were you ever at Collombier? I have.

How long have you been at Morge and Collombier at a time? About six weeks.

Did you let it be known by every body there that you were in that neighbourhood, or did you conceal yourself? I made myself known to all.

Under what name did you go there? By my own proper name, Sacchi.

Had not you money in your name at a banker's at Lausanne? I had.

How much had you there in your name? Fifty Louis.

Will you swear you had not more than that at one time at that banker's? I had no more than those fifty Louis.

Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than that? I never had.

Have you never represented that you had a larger sum or a greater credit? I do not remember to have said so.

But you will not swear that you have not said so? I cannot swear when I am in doubt.

Did not you fetch a certain Mlle. Demont from Switzerland to Milan? I did.

Did you bring her back? I did not.

But you went to prevail upon her to go to Milan, did you not? Not to prevail upon her, but to ask whether she would go or not.

Who employed you to fetch her, or to procure her attendance? I was desired by the commission at Milan.

Did you tell any person in Switzerland that Demont was gone back or going back, to

return into her royal highness's service? Never.

Whom did you come over yourself to this country with? A courier, called Mr. Krouse, and my servant.

Is that Mr. Krouse the person who was lately arrested at Paris on a charge of having dealt in forged notes? I never heard speak of that.

Did Mr. Krouse come over with you to London or remain in Paris? He came with me over to London.

Is Mr. Krouse a regular messenger, one of the king's messengers, or only employed on the Milan commission business? I do not know.

Have you made any other journies with Mr. Krouse? I have not.

How much money did you get by the Milan commission for your trouble while you were at Milan? I have received no other sum, except for the expenses of the journey that I made to go to Lausanne and return, and for another journey which I took to Scharnitz and returned.

Do you mean to swear you have received no promise of any sum from the Milan commission for your trouble? I can swear never to have received any promise.

Do you mean to swear you have received no promise from any person of a remuneration for your trouble in this business? I can swear never to have received any promise.

Do you mean to say you will swear you never received any promise, from any person, of any advantage, of any sort, to be given you for this? I have never asked for any thing, nor has ever any thing been offered to me.

The question is not whether you have ever asked for any thing, or any thing has been offered to you, but whether any promise was ever made to you, by any person, of any advantage whatever? No one has ever promised me any thing.

Have you ever said to any person that you have received any money, or any promise of any money, or of any advantage? I have never said to any person that I had received any money, or any advantage; I might have said that I have received the money for the expenses of my journey.

Do you expect to receive nothing for your trouble in this business from any person? I hope that my time will be paid which they have made me throw away till now.

Have you ever seen M. Demont since you came to this country? Many times.

Have you seen any of the other witnesses in this business? Never.

Re-examined by *Mr. Attorney General.*

Where does your family live? My family now resides at Trobio.

Were you ever in the army? For ten years.

In what army did you serve? In the army of Italy.

Whose army of Italy was it; Buonaparté's army? Of the Kingdom of Italy, headed by Buonaparté.

What rank did you hold in the army at the time you quitted it? First lieutenant of cavalry.

When were you made a lieutenant of cavalry? On the 6th of September 1813, in the field of battle.

At the time you left the princess's service, did you receive from her royal highness any certificate to your character? I did.

Have you got it about you? I have. [Producing a paper.]

Is it signed by her royal highness herself, in her own hand-writing? When it was given to me, I was told that it had been signed by her royal highness.

Have you ever seen her royal highness write? I do not remember.

Have you ever seen any letters which have been written by her.

Mr. Brougham objected to the question.

Mr. Attorney General.—Do you know whose seal is annexed to it? I do.

Whose seal is it? A seal that I have seen often on the letters that her royal highness gave me.

Who gave you that certificate? Count Schiavini.

The Attorney General requested, that the certificate might be read.

Mr. *Brougham.*—My learned friend has not yet brought home the paper to her royal highness. I object as much for the sake of regularity as any thing else to its being read. The paper was received from Schianivi, *non constat* who Schiavini was. It bore a seal similar to that upon some letters sent by the princess; *non constat* that it was her royal highness's own seal, *non constat* that they were her royal highness's own letters. Therefore I object to the paper being read at present.

Mr. Attorney General.—You say that was given to you by Schiavini? I repeat it.

Is the body of the certificate written by Schiavini? Yes.

At the time you received that certificate, or about that time, was Schiavini the person who was in the habit of giving characters to persons who left her royal highness's service?

Mr. Brougham objected to the question.

What situation did count Schiavini hold in her royal highness's service at that time? Marshal of the palace.

When the servants quitted the service of her royal highness, did any person in her household usually give them characters? I have not seen; but Majoochi so received his certificate, and that was given to him by Schiavini.

Had Schiavini the office of marshal of the palace at the time he gave you that certificate? He had.

Did you apply to him for a certificate to your character? I did not.

How long before you quitted her royal highness's service was it that Majocchi quitted? Majocchi went away before me.

How long before you? I do not remember.

About how long? About two months.

The *Attorney General* submitted, that he was now in a condition to read the certificate, connecting this evidence with that given on a former day.

Mr. *Brougham* objected to its being read, and stated the seal was not capable of being deciphered, and that there was no proof it was put by her royal highness.

The Counsel were informed that the evidence was not sufficient to permit the certificate to be read at present.

You have been asked as to your communication with persons of the name of Marrietti; who are the Marrietti's? I have known several brothers called Marrietti.

Have they a banking-house at Milan? The family of Marrietti are bankers at Milan.

Have they also a house of trade in London? I know no establishment under their firm.

Do you know the firm of Orbicini and company? I do.

Is one of the Marrietti's a partner in that house? I believe so.

Do you know whether the Marrietti's are the princess's bankers at Milan? I know that the house were so.

You have stated, in answer to a question, that about two months ago, one of the Mr. Marrietti's called upon you? I did.

Upon that occasion did Marrietti state for what purpose he called upon you? He did.

Mr. *Brougham* objected to the relation of any conversation between the witness and a third person, unless the rule was to be laid down, that because a particular person was at one time his (Mr. B.'s) banker, he must be therefore connected with all such persons said.

The *Attorney General* meant not to argue on any hypothesis. He was aware that he had no right to put such a question in an examination in chief, but when in a cross-examination questions were asked relative to a conversation, he contended that he had a right to inquire as to the whole of that conversation.

The *Lord Chancellor* desired that the evidence relative to the conversation alluded to should be read.

The following Questions and Answers were then read from the previous part of the evidence:

"Did you ever disclose to Marrietti, or any of his family, that you were one of the witnesses against her royal highness? I told it to Mr. Marrietti after I returned from Aston.

"How long ago is that? About two months ago.

"Did you not at that time know that Mr. Marrietti's family had discovered who you were? I do not know.

"Do you mean to swear that you did not know at the time you told him who you were, that they already knew who you were? Who I was as a witness, do you mean?

"Your name in the first instance, that they had found out your real name? Yes, because I had mentioned it to some persons much before.

"But not to any of Marrietti's family? I told my real name to one of the brothers of Marietti, who was at Aston with me.

"When was it that you so told your name to one of the Marrietti's? After I had been at Aston a few months.

"How long ago is it, how far back? Seven or eight months.

"To whom was it you told your name, and who you were, two months ago? Two months ago, I do not remember.

"Did the gentlemen of Mr. Marrietti's family to whom you disclosed who you were, ever see you afterwards? It is some time since he has set out for Milan.

"Have you ever been in Mr. Marrietti's house since you mentioned this to the gentleman who is gone to Milan? Several times.

"When was the last time that you were there to make a visit? Three or four months.

"Did they then know that you were Milané or Sacchi? The brother who was set out for Milan knew that I was Sacchi, the others I do not know."

Then the Witness was asked,

Mr. Attorney General.—Upon what occasion was it that you told Marrietti you were a witness against the Queen? On the occasion that he came to pay me a visit at my lodgings, about two months ago.

What was it that made you state that to Marrietti; what had Marrietti said, or had any thing passed which induced you to state that to Marrietti at that time? Mr. Marrietti before coming sent to me one of his friends.

Confine yourself to the time when Marrietti came?

Mr. *Brougham* insisted that the witness had said nothing in his cross-examination leading to such an explanation as he was about to give. It was not because A. B. had told Marrietti something, that it was to be made evidence against the Queen. Marrietti might have been dumb, for any thing that the witness had stated in his cross-examination.

Mr. *Denman* further enforced this objection, contending, that the answer formerly given by the witness required no further explanation, which formed the only reason for allowing more questions to be put on re-examination.

The *Attorney General* fully allowed that all questions on re-examination must arise out of something said on the cross-examination: for

this reason, the question he had put was perfectly regular: the witness had told Marrietti that he was to give evidence against the Queen, and what he wished to know was, what Marrietti had said to lead the witness to give him that information. He would not waste time by arguing at length a matter in itself so clear.

The Counsel were informed, that they might ask as to the particulars of any conversation with Marrietti, to which the witness had been asked on cross-examination, but that the witness should be asked whether that which he had said arose out of the inquiries of Marrietti.

Mr. Attorney General.—Did any conversation pass between you and Marrietti, at the time to which you have referred, relative to your being a witness on the subject of the Queen? Marrietti came to me in the morning, and told me that Mr. Brougham, the brother of the counsel of her majesty, had called upon him, and as Marrietti had received some favours from those two brothers——

Mr. *Brougham.*—See, my lords, to what your permission leads. [Order.] Do any of the judges refuse to allow me to speak? [Some confusion.]

Lord *Exmouth* said, that he had called to order, as he had a right to do, when the counsel had interrupted the witness.

Earl *Grey* begged to inform the noble viscount that counsel were at full liberty to interpose if a witness stated what was not legal evidence. Counsel would ill discharge their duty as advocates, if they did not interpose, and their lordships their duty as judges if they did not allow that interposition.

Lord *Exmouth* said, that the counsel had interrupted the witness in the very middle of an answer.

Earl *Grey* repeated that such was the constant and regular course.

The Counsel were informed, that they might ask the question what induced him to make to Marrietti the statement of his being a witness against the Queen.

Mr. Attorney General.—What induced you to make the statement to Marrietti, that you were a witness against the Queen? Marrietti, when he came to pay me a visit, had already been told by somebody that I was a witness against the Queen, and he asked me whether it was true, what he had heard, that I was a witness against her majesty; I answered in the affirmative; he then told me—

Mr. Denman objected to this answer, submitting that the question put by Marrietti having been stated, and the witness having stated the answer which he gave to that question, no further account of the conversation which passed could be given in evidence.

The *Attorney General* answered, that a counsel who in cross-examination put a question regarding a conversation, knew, that he thereby ran the risk of having the whole of that conversation brought forward in the re-examination. This was only the common case; such as occurred every day at *nisi prius*, and their lordships would deal with it accordingly.

Mr. *Brougham* enforced the inconveniences that must necessarily arise if a door were thus opened to conversations of any kind, and with any persons. The primary issue regarded the Queen, and there was a collateral issue on the credibility of the witness, but neither of them could be affected by the dialogue between the witness and Marrietti. Suppose the witness had conversed with De Mont respecting the Queen, would the House think of inquiring into all that had passed between them?

The Counsel were directed to withdraw.

The Counsel were again called in, and the attorney-general was informed, that considering the answer as having stopped at the words "I answered in the affirmative," he might put a question on which the opinion of the House might be taken.

Mr. Attorney General.—What did Marrietti tell you, upon your saying that you were a witness against the Queen?

Mr. Brougham objected to the question.

The counsel were informed, that in the opinion of the House the question was put too generally; and that the witness might be asked, what did Marrietti say with reference to that which you so stated?

Mr. Attorney General.—Did Marrietti, upon your saying you were a witness against the Queen, say any thing to you upon that subject.

Mr. Brougham objected to the question.

Mr. Attorney General.—Before you stated to Marrietti that you were a witness upon this subject, had he said any thing more than you have already stated? No.

Upon your saying that you were a witness, did Marrietti make any observation upon the subject of your being a witness?

Mr. Brougham objected to the question. What Marrietti said could not touch the Queen, unless agency was first established.

The *Lord Chancellor* consulted with the judges, and after a short inverval, his lordship stated, that the judges wished to have that part of the short-hand writer's notes which included the cross examination relative to this point.

After some further conversation, it was agreed that the answer of the judges should be given to-morrow morning, it being understood that they would give their answer upon a question involving the point in dispute, founded upon the practice of the courts below.

Adjourned till to-morrow.

HOUSE OF LORDS.

Wednesday, September, 6.

The House having been called over,

Lord *Kenyon* made the motion of which he had given notice yesterday. He thought that, considering the agitated state of the public mind, the fullest explanation ought to be given on this most important topic. He then moved for "Copies of all Communications which have taken place between his Majesty's government, and her Majesty's legal advisers, touching pecuniary supplies; together with an Account of all Sums of Money furnished from the Treasury for her Majesty's use, since her arrival in June last."

Lord *King* disliked the motion, because it only went to disclose the expenses which had been incurred on one side. He thought it right that the whole transaction should be known to the House in all its particulars. It was evident, from the testimony of several of the witnesses at the bar that large sums of money had been paid or promised on this occasion. It was, important that the House should know on what authority those sums had been promised or paid, and from what funds they had been taken, or were yet to be drawn. It would be satisfactory also to know, if any estimate had been made before hand. He alluded to the case of Warren Hastings, wherein such an estimate had been given, though the eventual expense far exceeded it. No doubt the money spent and to be expended on the present occasion, would be a sum of great magnitude and it would be well for their lordships to be informed of it. The object of the motion proposed was chiefly to secure the furnishing of proper means to the Queen for her defence. No question but that in appearance, her majesty would be most amply supplied; but would those means be all furnished? Government would, perhaps, give directions to ministers and ambassadors on the continent to give all facilities to the Queen's agents, and advance the necessary means. But upon application to those ministers, it might turn out that there was a *double entendre* in the orders given for that purpose. The object of the motion was a very proper object. But it would be much better, if it [illegible] shaped, as to bring the whole expenses of the transaction before the House.

The Earl of *Liverpool* had no difficulty in agreeing to the motion of the noble baron, as it stood on a specific ground. As to the expense of the whole proceeding, there would be no difficulty on the part of government, at the proper time, to lay the accounts before parliament. At present he thought it would be most inconvenient and improper to call for those accounts.

The Lord Chancellor put the motion, adding after the words "legal advisers" the words "and agents." A division took place. The numbers were, Contents, 133; Non-contents, 73.

The Earl of *Darnley* then observed, that as an account of the pecuniary advances to the queen, with a view to enable her majesty to prepare for her defence, was to be laid before the House, he thought it also desirable that the House should be informed of all the expenses which had been incurred from the outset of this unfortunate business. He should therefore move for "An Account of all Sums of Money expended in the Inquiry relative to her Majesty the Queen, since the time of her leaving England, in 1814."

The Earl of *Essex* observed, that he should vote for the motion, but if the noble earl opposite would give a pledge, that at a future period he would lay before the House the whole of the expenses incurred in this business, including that of the Milan commission from its first establishment, he would advise his noble friend to withdraw his motion.

The Earl of *Liverpool*, in the fullest and most explicit manner, said, he would do so when the business was concluded, adding, that it would be inexpedient to make such a communication at present.

The Earl of Darnley withdrew his motion.

The order of the day being read for the farther consideration and second reading of the bill of Pains and Penalties against her Majesty; and for hearing counsel for, and against the same,

Counsel were accordingly called in.

The *Lord Chancellor* recapitulated what had taken place yesterday at the close of the proceedings, and the question which had been raised on the examination then in progress. He had considered the subject, and would move, that the following Questions be proposed to the learned Judges:

1.—"If upon the trial of an action brought by A. (plaintiff) against B. (defendant), a witness examined on the part

of the plaintiff, upon cross-examination by the defendant's counsel, had stated, in answer to a question addressed to him by such counsel, that at a time specified in his answer, he had told a person named C. D. that he was one of the witnesses against the defendant, and being re-examined by the plaintiff's counsel, had stated what induced him to mention to C. D. what he had so told him, and the counsel of the plaintiff should propose further to re-examine him as to the conversation between him and C. D. which passed at the time specified in his former answer, as far only as such conversation related to his being one of the witnesses, would such counsel, according to the rules and practice observed in the courts below with respect to cross-examination and re-examination, be entitled so further to re-examine such witness; and if so, would he be entitled so further to re-examine as well with respect to such conversation relating to his being one of the witnesses against B. as passed between him and C. D. at the time specified, after he had told him that he was to be one of the witnesses, as with respect to such conversation as passed before he had so told him?

2.—"If upon the trial of an indictment against A. a witness examined on the part of the Crown, had stated upon cross-examination by the counsel of A. in answer to a question addressed to him by such counsel, that at a time specified in his answer he had told a person named C. D. that he was one of the witnesses against A., and being re-examined by the counsel for the Crown, had stated what induced him to mention to C. D. what he had so told him, and the counsel for the Crown should propose further to re-examine him as to the conversation which passed between him and C. D. at the time specified in his former answer, as far only as such conversation related to his being one of the witnesses, would such counsel be entitled so further to re-examine him; and if so, would he be entitled so further to re-examine as well with respect to such conversation relating to his being one of the witnesses against A., which passed between him and C. D. at the time specified, after he had told him that he was to be one of the witnesses, as with respect to such conversation as passed before he had so told him."

The Questions were delivered to the Lord Chief Justice, and the learned Judges requested leave to withdraw.

During the absence of the learned Judges,

Mr. *Brougham* said:—Perhaps your lordships will allow me to perform a very painful duty; but one I owe to the profession, and I may say to the court. My lords, I am unwilling at all times to complain of any use or even any abuse, if it is kept within ordinary limits, of the press; but as a minister of this court, in which I have the honour to practise, I think there are some bounds which ought to be prescribed, and which I humbly submit to your lordships, for the purpose, not of punishment, but of warning and hint for the future; and I am sure there will be on all sides of the bar a most ample disposition to concur in the propriety of this proceeding. My lords, in giving the evidence which passed yesterday, one of the morning papers of this day has made the following most gross, and I will add, flagitious mis-statement—flagitious, because no man who heard it could think that any thing like what was said, is what was here given, and the motive and purpose of altering it is equally apparent. The question asked was—"Did any conversation take place between the witness and Marrietti, relative to his being a witness against the Queen?" —The pretended answer—"When he told Marrietti that he was going as a witness against the princess, Marrietti told him that Mr. Brougham, brother to her royal highness's counsel, had said he would bestow favours on those who would not go," charging that honourable relation of mine with tampering with witnesses, and imputing an offence to him which must, my lords, if you have privileges, suspend this inquiry, until you shall have called that person to the bar, or at least his agent Mr. Marrietti, and have dealt with him, as a person deserves to be dealt with who dares to tamper with the witnesses before your lordships bar. My lords, there was nothing like this said; it was only said, that that person had been with Mr. Marrietti that morning, and had desired him to go—I do not believe even that was said—but that he had been with the witness, and as he, Mr. Marrietti considered himself to be under some obligations to me, then he was going to say something else, obviously that he then came to ask what Sacchi had to say upon the subject. I put it to any man who hears this read, whether a more gross, more scandalous, or more flagitious misstatement ever was made of a proceeding in

a court of justice; and if any motive were wanting to make me most earnestly hope that the opinion of your lordships and the learned judges might be such as to enable the evidence to be gone into, which I, not knowing the extent of human malignity and misconstruction, did, for the purpose of regularity, object to, that is supplied, and I now waive all objections, and most earnestly desire the whole of this matter to be probed instantly to the bottom, in whatever way your lordships may think most consistent with your privileges. And if the charge is meant to be made against me, for the purpose of fixing the Queen, I, who never saw Mr. Marrietti since November last, and know nothing about what he has been doing, waive my privilege of parliament, and do implore your lordships to inquire into my conduct, and to deal with me as you would by any other witness not having the privilege of parliament. The only thing I am apprehensive of, is your lordships not going into this inquiry fully. I will only add, if any corroboration is necessary of the total falsehood of this report, that I have put into the hand of one of his majesty's ministers, who has taken a very active part naturally on this subject, a letter from Mr. Marietti's father to his own son, in which the circumstance of young Mr. Marrietti having gone to Sacchi was mentioned: and I am not sure that this communication having been made by me is not the very ground of this matter being brought forward—that letter was, to complain of colonel Brown having threatened Mr. Marrietti with being sent out of the country under the Alien Bill, and the noble earl immediately relieved that young gentleman's fears. I only mention this to show, that I was the person who told lord Liverpool, by showing this letter, that Sacchini had been gone to by young Marrietti, as Mr. Vizard had a right to go to him, or to any others, to see what evidence they had to give, and as the lords of the Admiralty sent for two of the Queen's witnesses, as they had a right to do, being sea officers, to ask them what evidence they had to give. The paper he had alluded to was the Morning Post.

The *Attorney General* said, that his learned friend had gone much further than he was warranted; for his observations went to charge him with having held some communication relative to Marrietti with his majesty's government. He never heard, however, of the facts till they came out upon Sacchi's examination by his learned friend. He was then informed, through a channel which it would be improper for him to mention, of that which led him to suppose, that it might be important to have the whole of the matter sifted to the bottom. His learned friend should be a little more cautious how he imputed to him the holding any communication with the earl of Liverpool on the subject; which he could assure the learned gentleman never took place. With respect to the conduct of the press, his learned friend had produced that which by no means corresponded with the statement of the witness at the bar, and to that he should have confined himself.

The Earl of *Liverpool* felt it material that he should state how the matter of fact stood. It was perfectly true, that the learned counsel did, with great courtesy, about three evenings ago, send him such letter and representation; and he (the earl of Liverpool) took the liberty of stating to the learned counsel immediately, that there was not the smallest foundation whatever for what had been said about any liability of M. Marrietti's being sent out of England; and informing him that he might assure M. Marrietti, the son, that he had full protection of the government, for any thing which he might do in this case. He had felt it his duty to communicate the point to another person in office, in order to ascertain the correctness or otherwise of the fact; and to M. Marrietti, the father, the proceeding he had taken, in order that he might be aware of the circumstances in which he was placed, if any such thing (which he did not believe) had been really said. But he thought it also his duty now to state, that he never had any communication, personal or direct, with the attorney-general on the subject; if he had any knowledge of the fact, it must have been through other channels.

Lord *Melville* said, that it having been stated, that the lords of the Admiralty had sent for two officers of the navy, in order to put questions to them, he should wish to state what was the real case, and with what view any proceeding of the kind had taken place. It did so happen, that with a view of bringing forward evidence, as to the residence of persons in different parts of the world, the professional gentlemen retained in support of this bill, had from time to time made applications to the Admiralty, to know where certain individuals

in the navy resided, and where they were to be got at. In acceding to those applications, the lords of the Admiralty had done no more than their duty. He would go farther, and say, that if any applications of a similar nature had been, or should be made by the professional gentlemen retained against the bill, their lordships would feel it to be equally their duty to comply with them. It also so happened, that one of those persons whom it was wished to produce at their lordships' bar in support of the bill, was an English seaman, in his majesty's service, and had been on board of a certain polacre, of which noble lords had heard so much. Within these few months the same man was on board one of his majesty's ships. This had been ascertained by reference to the naval department; but what had become of him since was not known. He had no hesitation in saying, that it had occurred to him to send for two British naval officers, who were also on board the polacre, thinking that they might happen to know where that seaman could be found. He therefore felt it his duty to desire, that they might be sent to the Admiralty in order to be asked that single question. That single question was all they were asked: at least he might take upon himself to state, that the person or persons who saw them, unless they had acted quite contrary to his instructions, had done no more.

Lord *Erskine* said, he was satisfied the counsel meant no insinuation as to the fact which had been so satisfactorily explained. The learned counsel had, with a very natural feeling, consented to withdraw his objection to the question, which had been put on account of the insinuation made against himself. He (lord E.) however, could not consent that the rules of evidence should be departed from on account of that insinuation.

The *Lord Chancellor*.—It certainly does appear, from the short-hand writer's notes, that the publication which has been complained of, is by no means consistent with the evidence which was given. My lords, with respect to representations and misrepresentations which are found in the public prints, I trust your lordships will excuse me if I take the liberty of saying, that if you throw aside your privileges with reference to such publications, you must insist on their being minutely correct. My lords, what it may be fit hereafter to do, with respect to some publications that have gone forth to the world with reference to this matter, is, perhaps, that which may hereafter be brought under your lordships' consideration—whether it will be expedient at present is another question.

After some time, the Learned Judges returned; when the House being informed that the Learned Judges differed in their Opinion as to the Answer to be given to the Questions proposed to them, they proceeded to deliver their Opinions seriatim.

Mr. Justice *Richardson*—

My lords; two questions have been proposed by your lordships for the opinion of the judges. The first question is in these words: "If upon the trial of an action," &c. [Here the learned judge read the first question]. The other question proposed by your lordships for the opinion of the judges, states the same question in reference to a criminal proceeding. My lords, this question I feel myself entitled to answer in the negative, namely, that the re-examining counsel would not be entitled, by the rules and practice observed in the courts below, in respect of cross-examination of witnesses, to examine to the extent of the conversation alluded to; and I think there is no difference, in this respect, between a civil proceeding and a criminal proceeding.—My lords, I abstain from stating to your lordships at length the reasons which have induced me to form this opinion, because I am aware those reasons will be stated in detail by the lord Chief Justice of the court of King's-bench, and that it would therefore be a waste of your lordships' time.

Mr. Justice *Best*.—

My lords; I assure your lordships, with the greatest sincerity, that I never before rose in the state of embarrassment I now feel. I am embarrassed because I feel myself to differ from all those whose opinions I respect. But, my lords, short as the time has been, during which I have filled the office of a judge, I have learnt, that if to form an accurate opinion is the first part of my duty, to declare that opinion, without regard to the opinion of others, is the second.—My lords, I feel myself bound to answer these questions in the affirmative. I cannot myself discover any difference between the two questions, namely, that which relates to criminal and that which relates to civil proceedings; because I have always understood (and if I had time I would have furnished myself with a case to show that to your lordships), that the rules of evidence are the same in civil and in criminal proceedings.

My lords; the rules of evidence are formed with a view to the attainment of the truth: they must be the same, whatever the practice may be; therefore I give precisely

the same answer to the question relative to an indictment, that I give to the question relative to a civil action. My lords, the question is this: "If upon the trial of an indictment against A. a witness examined on the part of the Crown had stated, upon cross-examination by the counsel of A. in answer to a question addressed to him by such counsel, that at a time specified in his answer, he had told a person named C. D. that he was one of the witnesses against A. and being re-examined by the counsel for the Crown, had stated what induced him to mention to C. D. what he had so told him"—My lords, some difficulty may, perhaps, arise upon the wording of this part of the question; but I think that difficulty may easily be got over—it may be taken to be the meaning of your lordships, that the witness at this time is supposed to have declared all the motives which led him to give that answer. My lords, he might have at that time stated all which occurred to him as to what were his motives, and yet the answer given by the person to whom that expression was used, might have brought to his recollection other motives which did not at the instant occur to him. Your lordships will see this from the experience you have had in this place upon this trial. If the witness is stopped, the administration of justice must consequently fail—motives may be extracted from witnesses by questions subsequently put to them that did not occur when the previous question was put. And, my lords, for one, I feel that great mischief would be produced in the administration of justice—that often criminals would be placed in a dreadful situation, and witnesses in a most tremendous situation—in such a situation, that hardly any one would endure to be examined as a witness, if, at the moment that certain motives were got out, all inquiry was to be stopped, and no further questions were to be permitted which might lead to a full statement of his motives. I feel it my duty to state on that ground, that the examination should be proceeded in, in order to give to the witness an opportunity of stating, whether any other circumstances operated upon his mind, to induce him to make that disclosure. But my judgment is not formed upon that—I rest my opinion upon this broad ground, which I have always understood to be the practice of all the courts of Westminster-hall, that when you receive a part of a conversation, you must and ought to receive the whole, and that, in my opinion, no cause would be safe, and more particularly no witness would be safe, if the whole is not received. And I think, as a judge, that it is not only my duty to do justice to the parties, so far as I can, but to do justice to the witness, who, by becoming a witness, places himself under my peculiar protection. I think, therefore, that I am bound to give him an opportunity of stating all that passed at the time, for the purpose of his going out of court with the same character as that with which he entered it, and in a complete state of protection against any proceeding that may afterwards be instituted against him; and, my lords, I do not see how this is to be done unless the whole of a conversation is stated.

My lords; there are two cases which occur in the course of examinations to conversations—one is the examination as to a conversation with the party, and the other is the examination as to a conversation with the witness. The effect of those conversations upon the cause is extremely different; a conversation with a party is evidence directly upon the issue in the cause.—If a party has said so and so, that is to be used for the purpose of proving the case against him. A conversation with a witness is not evidence directly upon the issue; it is evidence only to the credit of that particular witness. But, my lords, the rules by which the examinations in the one case and the other are to be governed, in my opinion, are the same, and must of necessity be the same. Now, my lords, there is no man will deny, that if a witness be asked, what a party in the cause has said, the whole which that party has said must be received in evidence, though part of what he has said may make directly in his favour; and the counsel who puts that question exposes himself to that consequence at the time he puts the question. In that case, it would be made directly evidence in the cause upon the issue; but with respect to that said by a third person to the witness, it is no otherwise material, than to enable the court afterwards to judge upon the degree of credit to be given to that witness, and it is the duty of a judge, to say to the jury, supposing an examination to take place on a question of this sort—"Be so good as to remember, that that which has passed in this conversation is no further material, than as it tends to destroy, or support the credit of the witnesses." He will not treat any of the facts stated in that conversation as facts proved in the cause; but, that duty being performed, in common sense and in common justice, I conceive the law is the same in both cases, and in both the whole of the conversation must be heard. My lords, if that be so, not merely that which preceded the declaration of the witness explaining his motives, but that which he said afterwards, must be received; because your lordships are to judge from the character and complexion of the conversation, and that which has been said immediately after, may be most material to explain that which has passed before. I do not myself comprehend how a conversation passing between two parties can be perfectly understood, unless you hear what both parties have said; for, unquestionably, that which I should say would be better understood by hearing the answer; the immediate answer of the person with whom I conversed, explains how he understood me at the time; and therefore you do

not do justice to me; if you receive that which I said, if you refuse to receive that which that person said in answer to me.

My lords; I would wish also to state this to your lordships; it may be said, if the motive be fairly got, what reason can there be for going further? and it may be urged, that it would be laying down a dangerous rule to say, that what may be got out afterwards cannot be material—that when a witness has said, "I am a witness in the cause," any thing which passed in a subsequent conversation, cannot be material either to explain or do away that in any manner whatever. But, my lords, is there any man, accustomed to the administration of justice, who will be bold enough to say, that he has not five thousand times seen and heard that stated, as to which he has not at the moment seen that any thing said afterwards could explain or do away the effect of it, but which he has afterwards heard explained by what passed afterwards, so as to show that the words bore a very different meaning from that which they would appear to bear without that subsequent information? If that be so, it appears to me, it would be doing the greatest injustice to the witness to refuse to hear it, and that we proceed upon principles which do not obtain the truth of the case, if the whole of the conversation is not to be heard; and that a conversation is to be examined into in the same way with respect to a witness, as where it has taken place with a party.

My lords; it was very shortly since, that this question was submitted to me. I do not believe, however, that, if I had had more time, any authorities would have been found to support the opinion; because, from the manner in which these things pass in a court of justice—I am not aware that any judge was ever called upon yet, to decide the question; I believe this is the first moment that the subject has been brought under the consideration of a judge—because, in general, in the courts below the questions are so put, that it is not necessary for judges to decide points of this sort, but another question is immediately put which saves the necessity of deciding upon it.

My lords; no man can venerate any part of the law more than I do, or feel a greater respect for the laws as they are administered; but my conscientious opinion is, that the rules in the courts are too narrow—that they exclude too much. I am desirous that these rules should not be narrowed, but be extended as far as they can consistently with the principles which have received the sanction of the most learned and eminent judges. I therefore think, that if the point occurred in a court below, I should certainly feel it my duty to hear the further part, in order that I might judge of its materiality and application; but feeling myself bound to tell the jury, that they were not to act upon the facts stated in that conversation as facts proved, but to consider that which was stated only with reference to the credit of the witness. I have felt it my duty to state the opinion which I entertain; feeling it a great misfortune to be under the necessity of differing from the rest of the judges—but upon these grounds, I feel myself bound to answer these questions in the affirmative.

Mr. Baron *Garrow*—

My lords; after the very anxious discussion and consideration of the questions put by your lordships, I shall follow the example of my learned brother who addressed your lordships first, in stating, that upon the fullest consideration which I have been able to give to the subject, I concur with him in answering those questions in the negative. I shall not trouble your lordships with any arguments or reasoning upon the subject at length, for the same reason he has given—to save your lordships time, and to avoid giving you unnecessary trouble, the Lord Chief Justice of the King's Bench has been pleased to put into writing the answers in which several of us concur, and the reasoning upon which those answers are founded; and they will be better stated to your lordships and to the court than I could pretend to present them by any statement of my own. I beg leave to say, that my answer to this question stands entirely upon the form of the questions put to us by your lordships; and I beg to point to this circumstance as belonging to this statement, that it supposes and assumes, that the witness in the courts below, to whom it is proposed to put further questions in explanation of conversation he has had with C. D. has already stated his motive; for unless he had already stated his motive, if there were any thing that remained to be stated which, either for the sake of his consistency or character, he was desirous should be stated, I should have thought in the courts below it was due to him, that he should be permitted to go to the full extent of making that explanation.

Mr. Justice *Burrough*—

My lords; knowing perfectly the opinions which will be delivered by the lord chief justice, and concurring in the reasons he will give, upon which we have consulted long together, I will merely say, that I entirely concur in the answer which has been delivered by my learned brother who spoke first, and my learned brother who last addressed your lordships.

Mr. Justice *Holroyd*—

My lords; I feel myself compelled to answer the questions your lordships have proposed to the Judges, in the negative. I shall abstain from stating the grounds of my opinion, inasmuch as they are contained in those which will be delivered to the House by the lord chief justice; and therefore on that account, I will not trouble your lordships further, than by saying, that I agree with my learned brothers who are of opinion, that these questions must be answered in the negative.

Mr. Baron *Graham*—

My lords; in forming my opinion in answer to the questions your lordships have proposed to us, I have adverted to that which I understand to be the statement made—namely, that the witness on his oath has had an opportunity of explaining those circumstances which led to the expressions respecting which inquiry was made on the cross-examination, and of disclosing all those motives which induced him to make use of those expressions; and founding myself upon that part of this statement it is that I perfectly agree in the opinion, that those questions must be answered in the negative.

Lord Chief Baron *Richards*—

My lords; I concur in opinion with the learned judges who have answered the questions in the negative. We have considered them with all the care we could: and my lord chief justice has had the goodness to take the trouble of including his own words and those of others in the Answer he will deliver. For these reasons, I do not feel it necessary to say further, than that I am of opinion these questions must be answered in the negative.

Lord Chief Justice *Dallas*—

My lords; I fully concur in the opinion which has been expressed by the majority of the learned judges who have preceded me, and therefore, without going at large into the subject, I will content myself merely with stating, that having seen the Answer which your lordships will hear from the lord chief justice, I have thoroughly considered the reasons on which it is founded, I adopt them altogether, and therefore, to save your lordships time, I content myself with referring to them.

Lord Chief Justice *Abbott*—

My lords; I agree with the other judges in considering the two questions proposed to us by your lordships to be, with reference to the point on which our opinion has been asked, substantially one; and that question, as proposed by the House, contains these words: "The witness being re-examined, had stated what induced him to mention to C. D. what he had so told him," by which I understand that the witness had fully explained his whole motive and inducement to inform C. D. that he was to be one of the witnesses; and so understanding the matter, and there being no ambiguity in the words "I am to be one of the witnesses," I think there is no distinction to be made between the previous and subsequent parts of the conversation, and I think myself bound to answer your lordships question in the negative.

I think the counsel has a right, upon re-examination, to ask all questions which may be proper to draw forth an explanation of the sense and meaning of the expressions used by the witness on cross-examination, if they be in themselves doubtful; and also of the motive by which the witness was induced to use those expressions; but I think he has no right to go further, and to introduce matter new in itself, and not suited to the purpose of explaining either the expressions or the motive of the witness. And as many things may pass in one and the same conversation relating to the subject of the conversation (as in the case put by your lordships, the declaration of a witness that he was to be a witness in a cause or prosecution), which do not relate to his motive, or to the meaning of his expressions, I think the counsel is not entitled to re-examine to the conversation to the extent to which such conversation may relate to his being one of the witnesses, which is the point proposed in your lordships' question to the judges.

And I distinguish between a conversation which a witness may have had with a party to the suit, whether criminal or civil, and a conversation with a third person. The conversations of a party to the suit relative to the subject matter of the suit, are, in themselves, evidence against him in the suit, and if a counsel chooses to ask a witness as to any thing that may have been said by an adverse party, the counsel for that party has a right to lay before the Court the whole that was said by his client in the same conversation; not only so much as may explain or qualify the matter introduced by the previous examination, but even matter not properly connected with the part introduced upon the previous examination, provided only, that it relate to the subject-matter of the suit, because it would not be just to take part of a conversation as evidence against a party, without giving to the party at the same time the benefit of the entire residue of what he said on the same occasion. But the conversation of a witness with a third person is not in itself evidence in the suit against any party to the suit; it becomes evidence only as it may affect the character and credit of the witness which may be affected by his antecedent declarations, and by the motive under which he made them; but when once all that had constituted the motive and inducement, and all that may show the meaning of the words and declarations has been laid before the Court, the Court becomes possessed of all that can affect the character or credit of the witness, and all beyond this is, in my opinion, irrelevant and incompetent. On these grounds, I feel called upon to answer your lordships' question in the negative.

The *Lord Chancellor*.—My lords; the question on which the difficulty arose yesterday was this, "Upon your saying you were a witness, did Marrietti make any observation upon the subject of your being a witness?" Her majesty's attorney-general objected to that question: the attorney-general was heard in support of the question, and then the counsel were directed to withdraw. My lords, several

of the judges have laid stress upon the circumstance, that in this question these words occur, namely, "and being re-examined by the counsel for the Crown, had stated what induced him to mention to C. D. what he had so told him." The learned judges having laid particular stress upon these words, I think it my duty to state to your lordships, why it appeared to me that those words should be inserted. My lords, the question put by the attorney-general was, "What induced you to make the statement to Marrietti that you were a witness against the Queen?" He answered in these words, "Marrietti when he came to pay me a visit, had already been told by somebody that I was a witness against the Queen, and he asked me whether it was true what he had heard, that I was a witness against her majesty? I answered in the affirmative. He then told me"—and then the witness was stopped; so that the answer of the witness to that question was an answer that was not finished; and I do not think, that I should have been justified in putting the question in the terms upon which I have made the observation, if there had not another question been afterwards put in these words: "Before you stated to Marrietti that you were a witness upon this subject, had he said any thing more than you have already stated?"—to which the witness answers, "No."—Therefore it seemed to me, I own, to be clear, upon the two answers, taken together, to the two questions, that the statement of the witness was this,—that nothing had been stated to him before he declared that he was a witness against the Queen, except what I have before mentioned to your lordships. This appears to me, therefore, to embrace the whole question. We are now to decide—looking at what has passed only to ascertain what would be the opinion of the judges on a question arising in other courts—whether this question is or not to be put, regard being had to the general rules of evidence and applying those general rules of evidence to a case in which, as it seems to me, upon this answer, we must take the witness to have stated, previously to his having stated, that he was a witness for the Queen—the inducement that he had so to state. My lords, it is necessary further to call your lordships attention to this—that whatever instructions or commands you may give me to inform the counsel what they are to do, the information given to the counsel will not bind the House as to any question any noble lord may put; and if any question is put by any noble lord, it must be considered with reference to the circumstance of—not the counsel asking the question—but one of the judges, if I may so express myself, putting the question. My lords, with respect to any opinion I may have formed upon this point, I do not set a very great value upon it, because, as I have before stated to your lordships, it has not occurred to me of late years to attend to this subject of cross-examination, and therefore I think it much safer, upon the whole, to act upon the general opinion of those who have been conversant with such matters, than to act upon what would be my own opinion before I heard what I have now heard; but I must confess to your lordships I have been long in an error, if the rule with respect to re-examination or cross-examination, does not go the whole length of entitling a witness to have the whole of that conversation stated, I have no hesitation in expressing that opinion.

Lord *Erskine* said, he had no difficulty in concurring with the recommendation of the noble and learned lord as to the propriety of adopting the opinion stated by the majority of the judges, and rejecting the dissenting opinion of one of them. They had fallen into the present difficulty by using a term which could not be found in the notes of the short-hand writer, the witness having never used the word "conversation;" and he would ask how it was possible that any thing which Marrietti might have said afterwards could affect the motive by which the witness had been previously influenced.

Lord *Redesdale* acknowledged that he felt himself in an awkward situation, differing, as he did, from the opinion of the majority of the judges. The principle on which it appeared to him that their lordships ought to act was clearly laid down in the books as well as in practice. That principle was, that witnesses should state the truth, the whole truth, and nothing but the truth. In the present instance, it was manifest, that they had not the whole truth before them until an answer was given to the disputed question. The witness himself was proceeding to state something further, when he was stopped. It had been admitted, that if the witness had held a conversation with one of the parties, the whole of the con-

versation ought to be stated; but witnesses would be exposed most unjustly to prosecutions for perjury, if counsel were permitted to draw out part of an answer, and then to stop him. The answer falling short of the whole truth would expose the individual without any fault of his own. He did not state this particularly of the present case, but as applicable to general cases, and it was their lordships duty to endeavour to extract the whole truth, not only as it affected the case, but as it affected the credibility of the witness. It was the more important that they should do this, when they considered how often in their confusion witnesses misunderstood the questions put to them. Upon the whole, he conceived that their lordships were bound to proceed on the principle of extracting the whole truth, and he should feel himself at liberty to put any questions with that object.

The counsel were called in, and were informed by the lord chancellor, that the question, "upon your saying you were a witness, did Marrietti make any observation upon the subject of your being a witness," is a question that the House are of opinion cannot be put.

Then *Giuseppe Sacchi* was again called in, and further re-examined as follows by the Attorney-general, through the interpretation of the Marchese di Spineto.

You have stated, that when you came to this country, you assumed the name of Milani, what was the reason why you assumed that name? I took this name on account of the tumult (*tumulto*) which had taken place, and of the danger I should have run if I had come under my name, knowing that I should have been known.

You have stated, that you have taken another name; when was it that you assumed the name by which you now go? It was immediately after the affair that happened at Dover.

You have stated that you took an oath to your deposition, when was that? I do not remember exactly the day, but it is about two months ago.

On what occasion were you sworn to that deposition? It was proposed to me by the advocate Powell.

For what purpose? He told me ——

Mr. *Brougham* here submitted to their lordships whether the question could be put consistently with the decision that their lordships had already arrived at. If this question was not evidence, for the sake of regularity and the rules of evidence, let it be rejected. He felt how a counsel was exposed to the imputation of wishing to conceal a truth—that a witness might disclose in his answer, when he interposed an objection of this nature. In the courts below the judges would relieve him from this difficulty by stopping the question as irregular.

The counsel were informed that the answer should be given.

He told me that he (Mr. Powell) had received a letter from lord Liverpool, who had said that it was necessary I should take this oath.

Mr. *Brougham* said, he had made the objection after the first three words used by the witness. The remainder of his answer showed how necessary it was, that he should have interposed at that moment, for it disclosed not only that the witness was giving in evidence what Mr. Powell told him, but also what lord Liverpool wrote to Mr. Powell.

The *Lord Chancellor* said, that Mr. Brougham was right to take his objection whenever it best suited him, but that their lordships could not shut out the answer given by the witness.

The Attorney General maintained that his question was regular.

The counsel were informed that the answer should be received.

Did he state any thing more of the purpose for which this deposition was to be used? He added nothing else.

Examined by the *Lords*.

Earl *Grosvenor*.—You have described yourself as having been an officer in the army of Italy, do you receive any half-pay in consequence of having served in the army? I have no pay.

When you were discharged from acting in that army, did you offer your services as a soldier to any other government? After three years I asked to be taken into the service of Switzerland, who had agreed to furnish troops to the king of France.

What was the answer you received to that application? As I asked for the same rank of officer which I held in the army of Italy, it was answered to me, after a little time, that there was no vacancy.

Did they offer you any inferior situation? They offered me the rank of a serjeant.

Is it customary with persons in the situation you held under the princess to withdraw the curtains or other covering of the carriage without their permission, particularly persons in the high rank of the princess?

The *Attorney General* begged leave to submit, through the House, how far the custom and usage of servants could be received in evidence upon this occasion.

The question was directed to be proposed.

As every morning I had a custom to go to the carriage of her royal highness, to see whether she had any orders to give me, so sometimes I found the carriage open, sometimes I found that the curtains were drawn;

and having done so some time, I was never reprimanded, or even admonished by her royal highness that I had done any thing which was wrong.

Do you know whether Mr. Krouse was a friend of M^lle Demont? I have never tried to search into other people's business.

Do you know whether Mr. Krouse was a friend of M^lle Demont or not? I do not know.

Are you yourself a friend of M^lle Demont? Yes, I have known her in the house of her royal highness.

Do you know whether she assumed the name of countess Colombier in London? I know she had assumed the name of Colombier, but never the name of countess Colombier.

Do you know whether she assumed the name of countess Colombier in Frith-street, and dropped it in Oxford-street? I have said that I have never known that she had ever taken the name of countess Colombier.

You have said that you assumed different names at different times, that as to one name you wished no inquiry to be made, lest it should lead to difficulties or inconveniences; have you any objection to state to the House the number of names you have assumed within the last ten years? I have never changed my name before I changed for these last two times.

Lord *Kingston*.—You have stated in your cross-examination that you were not offered any money to induce you to come here to give your evidence; have you been offered any money by any person, or has any body endeavoured to persuade you not to give your evidence here since you arrived in England? No one has ever made me a promise of money, and no one has ever endeavoured to dissuade me from coming, because I never have communicated this thing to any body.

Marquis of *Buckingham*.—How long have you been acquainted with Marrietti? Since my arrival in London.

Is he a banker in Milan? I know at Milan the family of Marrietti.

Are they bankers at Milan? It is said they are bankers, but I never had any business with them.

Who is the Marrietti you are acquainted with in this country? I have known three brothers Marrietti.

In London? In London.

You have said, in the course of your examination, that one of the Marrietti's knew of your being a witness in this cause, have you not? I have said that Marrietti knew that I was a witness when I told him so.

Did any one of the Marrietti's, whom you are acquainted with in London, make any proposition to you touching the evidence you were to give in this cause? Guiseppe Marrietti came to my lodgings one day, and told me he wanted to speak to me; and he told me that he was directed by Mr. Brougham, the brother of the attorney-general of the Queen, who had called upon him in the morning, and inquired whether he knew me; he answered that he knew me; then the brother of Mr. Brougham asked him whether he might be able to learn from me something relating to her majesty; Mr. Marrietti added, as Messrs. Broughams have done me some service whilst I had some transactions with her royal highness, I should like to render them also some service; however, before I communicate to you what I have got to say, I beg to tell you, that I come as a friend, and not to dissuade you from doing what you have resolved; having also represented to Mr. Brougham that I would not either commit myself, or wished that the parties should commit themselves; and he added, as ministers will not grant the list of witnesses, or the head of charges against her majesty, we should like to know something from you, if you know any of the witnesses, if you know their number, and if you can inform us about any thing concerning the depositions they have made; then I answered, that although I knew something, I would not tell it, for it would commit me; but I knew only one of the witnesses, and that I knew no deposition of any other witness, and I could give him no other account. Mr. Marrietti added, that it was wished to know so much, that her majesty the Queen might preface her own defence. Afterwards he asked me, whether I might know something concerning the deposition, repeating again his assurances, that he did not wish to know this from me to commit myself, or to commit any of the parties; I remember no more.

Did Marrietti at any time give you any advice as to the evidence you were to give in this cause? Never.

Did Marrietti offer you any money in respect of the evidence you were to give? Never.

The Marquis of *Buckingham* informed Mr. Brougham, that if there was any other question which he wished to put as to this interview, he would willingly put it.

Mr. *Brougham* said, there was not. He had no reason to be dissatisfied with the answers already obtained, though others might be.

Earl *Grey*.—Had you ever gone by the name of Milani before you came to England? I took this name in Paris.

At what time, in what year, did you take that name in Paris? Four or five days before I set out for England.

When was that? In the month of July last year.

What was your motive for taking that name at that time in Paris? As I knew that I was known in London by my own name, I endeavoured to shelter myself against any inconvenience that might happen to me.

What tumult had happened at that time,

that induced you to take that name? I was warned that the witnesses against the Queen might run some risk if they were known.

Had you been informed that they had actually run any risk? They had not run any risk then.

The following question and answer were read from the previous evidence of the witness on this day.

"You have stated, that when you came to this country, you assumed the name of Milani, what was the reason why you assumed that name?

"I took this name on account of the tumult (*tumulto*) which had taken place, and the danger I should have run if I had come under my name, knowing that I should have been known."

Having stated in a former answer that you changed your name to that of Milani in consequence of a tumult that had happened, what did you mean by that statement? Whilst I was at Paris a gentleman came, accompanied by the courier Krouse, and the only time I saw him; and he told me that it would be necessary to change my name, because it would be dangerous to come to England under my own name, as I had told him I was known in England under my own name; and that already something had happened on this account; not on my account, but on account of other people.

Did he tell you that a tumult had taken place? He told me some tumult, some disorder.

On what occasion did he say that tumult had taken place? He told me nothing else.

You are understood to say it was with respect to other persons; what did you mean by other persons? He meant to say that some disorder had already happened, in regard to other persons, for similar causes.

What do you mean by similar causes? I have repeated what that gentleman told me.

Did you understand that it was with respect to witnesses who had come to give evidence in respect to the Queen? I believed it was for this object.

Did you know that any witnesses had at that time come over to give evidence in the cause of the Queen? I did not know with certainty; but in the same way I was coming, I might imagine that some other people might have already come.

It was then in consequence of having been sent for that you came at that time to England? Precisely.

Where did you lodge when you first came to England? In Leicester-square, at the Sabloniere's hotel.

How long did you continue there? About a fortnight.

Where did you go afterwards? To Arundel-street.

How long did you remain in the name of Milani? Until the affair of Dover happened.

It was then that you changed it, and not before? Not before.

Earl of *Darlington*.—What was the cause of your being discharged from the service of her royal highness?—It was in consequence of a difference which I had with the confectioner.

Who was the person that discharged you? Count Schiavini sent for me in the morning, and told me that he had received orders from her royal highness to discharge me.

You have said, in a part of your deposition, that you lived with a Mr. Godfrey since you came to England; in what capacity did you live with Mr. Godfrey? As I was ill in London, I sought after a place in the country, where to go and establish my health; and it was proposed to me to go to Mr. Godfrey's.

You have spoken of some balls; which were given at the Barona; were those balls given previously to her royal highness going to Turin? Some were given before going to Turin.

Do you recollect at Turin, the king and queen of Sardinia, or either of them, coming to the Hotel de l'Univers, to her royal highness? I do not remember.

Marquis of *Huntley*.—When count Schiavini gave you your discharge, did you not receive a certificate of character, signed by the princess of Wales?

Mr. Brougham submitted that the question was objectionable, as asking to the contents of a written instrument.

The Counsel were informed, that that question could not be put, until there was proof of the signature of her royal highness.

Did you receive a certificate at the time you were discharged from the service of her royal highness? He did not give it me on the same moment, but he gave it to me on the following day.

What rank had you, when you first joined the army in Italy? A common soldier.

Were not you raised to the rank of lieutenant from your own good conduct and merit? Yes.

Were you acquainted with any officers in the army, in which you served at that time, who subsequently obtained commissions in the Swiss army of which you have spoken? I do not remember.

Viscount *Falmouth*.—You are understood to have stated, that the princess was present during the balls mentioned by you, as given by her royal highness at the Barona, how long was she usually present at those balls? As her royal highness had her own apartment contiguous to the ball-room where she had her own party, so she came from the room and came into the ball-room, where she staid three or four minutes, and returned into her own room.

You have stated that the women were

taken out of the ball-room at the will and pleasure of the men, do you remember that on any one occasion any of the women were taken out of the ball-room in her royal highness's presence? I never made this observation.

Did you consider yourself as entitled to mix with the company at those balls? All had equal liberty.

You are to be understood that you did consider yourself as one of the company? Certainly.

Were you, or were any of the other servants, allowed to invite your friends to those balls? As far as I am concerned, no; in regard to others I do not believe they had such a power.

You are understood to say, that the princess herself, or another person directed by her, asked the company? Certainly.

At the time you left her royal highness's service, had you any recent quarrel with Pergami? I do not remember.

Earl of *Lauderdale*.—Do you speak and understand the French language? I do.

Was the speech which the princess made to you about the girls in the court, when she was with Pergami, in French or Italian? Her royal highness spoke to me always in French.

Can you state in French, the terms she used? Her royal highness, in the court, said to me, "Je veux faire un cadeau à quelqu'unes de ces demoiselles qui viennent à la danse; comment peut on les habiler ces vierges, M. Sacchini; croyez-vous qu'elles sont telles?"—"Moi j'ai repondû, quant à moi, je crois qu'elles sont des honnêtes filles, et je n'ai rien à dire à leur charge." Son altesse me dit, "Eh coquin, je sais que vous avez couché avec trois d'eux, et aussi combien de fois vous avez eu commerse avec eux."

Did the princess of Wales say nothing more? Not on that occasion.

Did you see those virgins at a ball and the princes of Wales present, subsequent to that period? I do not know what verginelli she was speaking of; I thought she was speaking in a general way.

Were there any balls subsequent to that period? There were.

Were they attended by the same sort of company? Nearly by the same persons.

What sort of a carriage was it in which the princess of Wales was when you opened the curtains, was it a carriage in which persons must sit, or was it a carriage in which they might either lie or sit? As her royal highness had three or four carriages in her suite, sometimes she went in one, sometimes she went in another; but I do not know whether they might be either sitting or stretched—sitting most certainly, because I have seen them sitting.

Do you recollect in which carriage her royal highness was, when you opened the curtain early in the morning? I do not remember.

Had she more carriages with curtains which you could open than one? I believe she had two.

In either of those carriages, was not it possible for a person to lie at full length? I believe that one might.

Do you recollect whether her royal highness and Pergami were sitting or lying at the time the scene took place, which you have described? To me they appeared to be sitting.

Have you said, that there was nobody else in the carriage that morning? I have said, that I do not remember this circumstance.

Can you say whether the countess Oldi was there? I have said that I do not remember, that it is not present in my mind; I cannot say whether she was present or not.

If there was any body present, are you not certain that the princess and Pergami were sitting next one another? I saw them one next to the other.

Earl of *Balcarras*.—At the time you withdrew the curtain did her royal highness sit on the right or left of Pergami? Her royal highness was sitting on the right hand of Pergami.

Was the opening of the small clothes on the right or the left of Pergami's person? On the right.

Earl of *Rosslyn*.—When you opened the curtains did you ask for orders? No, because they were asleep.

Did you wait? I did not.

Lord *Calthorpe*.—Did you ask to see the princess after Schiavini gave you your discharge? I asked to see the princess after I had received my certificate, the evening before I went away.

Did you see the princess after you had received that certificate? I do not remember.

Did you see her royal highness after you understood you were to quit her service? I did.

What passed upon that occasion? Her royal highness told me, that she gave me my discharge, in order to give an example to other servants, to prevent quarrels taking place in the house.

Did her royal highness state what the cause of these quarrels was? She told me, that as I had this quarrel with the confectioner, and* that she did not like that such quarrels should happen in her house.

Did she state any other cause of dissatisfaction with you? She did not.

Did you make any reply to her royal highness? I replied to her royal highness, that I did not believe it to be a fault sufficiently great for me to be discharged.

Did she make any allusion to your former conduct, previous to these quarrels? Her royal highness always showed her satisfaction towards my conduct.

Did she then make to you any promise of a

* Sic.

certificate of good conduct? We did not talk about certificate.

The following Questions were put by a Lord, at the request of the Attorney-General:

Do you know this paper [a paper being shown to the witness] to be the hand writing of Schiavini? As far as I know it is the hand-writing of Schiavini.

Have you seen him write? I have also received letters from Schiavini.

Have you seen him write? Several times.

Do you believe that to be his hand-writing? I think I am sure of it.

The following Question was put at the request of Mr. Brougham:

Did you not say just now, "Son altesse royale aura parlé mieux que moi (mais c'etoit à tel effet)?" No.

Do you mean to say that you used the first part of the words, but not the last part; that you did not say, "mais c'etoit à tel effect?" No, I said, "mais ça est le fait."

The Witness was directed to withdraw.

The *Lord-Chancellor* acquainted the counsel on both sides, that a witness, whose attendance was required on the part of the Queen, was abroad, and indisposed, and suggested, for the consideration of the counsel, whether they would consent that the witness should be examined by commission.

Then *Robert Hare* was called in, and sworn, and examined as follows by the Solicitor-General:

Are you cashier in the banking-house of Messrs. Coutts and company? I am.

How long have you held that situation? About thirteen years.

Does her majesty the Queen keep any cash at the house of Coutts and company? She does.

How long has she done so? I do not recollect the exact time, but previously to her going abroad.

Have you, as cashier, from time to time, paid her drafts? I have.

State whether you believe that signature to be the hand-writing of the Queen? [A paper being shown to the witness.] I think it is the hand-writing of the Queen when princess of Wales.

Cross-examined by Mr. *Brougham.*

Do you know the hand-writing of his majesty the King? I have seen it.

Do you know his hand-writing when you see it? I think I should know it.

Mr. Solicitor General.—Have you ever seen the King write? Never.

How do you know the hand-writing of the King? I have only seen it in a commission.

What commission? I do not exactly recollect what; but the King's signature has been shown to me in a commission.

Have you any other knowledge of the hand-writing of the King, except that a paper, purporting to be a commission, was shown to you, and you were told that was the hand-writing of the King? Not any knowledge.

Mr. *Brougham.*—Did his majesty, when prince of Wales, keep money at your house? He did.

Were you cashier at that time? I was.

Did you pay his drafts? He did not draw himself.

The Witness was directed to withdraw.

The paper spoken to by the Witness was read as follows:

Pesaro, li 5 9^bre 1817.

S. A. R. la Principessa di Galles certifica a chiunque, che il Sig^r Giuseppe Sacchi, nativo di Como, e da un anno al servizio della sullodata S. A. R. e prima nella qualità di corriere e poscia come scudiere, è fornito di ottimi costumi, ed ha servito con tutta l'assiduità, zelo, e fedeltà. Si certifica pure che detto Sig^r Sacchi viene messo in libertà per semplici misure economiche, e per la sola preferenza che devono avere gli anziani al di lei servizio.

CAROLINA,
Principessa di Galles.

Pesaro, 5th November 1817.

H. R. H. the Princess of Wales certifies to whomsoever, that Mr. Joseph Sacchi, native of Como, and during a year in the service of H. R. H. at first as courier and afterwards as equerry, is endowed of the best behaviour, and has served her with all assiduity, zeal, and fidelity: It is also certified, that the above-mentioned Mr. Sacchi has been dismissed merely for motives of economy, and for the preference alone which older servants in her service ought to have.

CAROLINE,
Princess of Wales.

The *Attorney General* proposed to give in evidence the certificate produced by Majocchi, referring to the evidence in pages 361 and 362; and it appearing on the further evidence that Schiavini (in whose hand-writing it was proved to be) was marshal of the palace, and that he had in several instances given certificates to the servants.

Mr. *Brougham* objected to the same being given in evidence.

The Counsel were informed, that in the opinion of the House this certificate could not be received in evidence.

The *Attorney General* then stated to the House, that certain persons resident at Lugano, who were intended to be produced as witnesses, had set out in order

to give their evidence; that they had advanced as far as Beauvais, when reports and rumours had reached them that certain persons who had come here for the purpose of giving evidence, had been extremely ill-treated at Dover; that they were alarmed, and in consequence of the apprehensions they entertained, they went before the magistrates at Beauvais on the 27th of July, and made a deposition to that effect, and not thinking it prudent to proceed, had returned to Lugano; that this deposition being received in this country, persons were immediately dispatched, in the hope of overtaking them before they had reached their home, but that they had reached their home before they could be overtaken; that on Monday last, letters had been received from Lucerne, near to the residence of the witnesses in question, in which it was stated, that those witnesses had altered their determination, and were about, on the following day, the 29th of August, to set out for England for the purpose of giving evidence; that as their arrival might therefore be expected in a very few days, he begged to ask of their lordships an adjournment, to permit that evidence, which he conceived to be important, to be laid before the House.

Mr. *Brougham*, in resisting the application, said, that the only analogy to guide the House was to be found in the proceedings of courts below: there, such a motion as that the remainder of a trial should be postponed when it had been half gone through, because a material witness was absent, had never yet been heard of. Motions of the kind were invariably made before the trial commenced, and then the party must swear to the importance of the testimony, to his inability to procure the attendance of the witness, and his expectation that in a short time he might be procured, was generally added in the affidavit. As, however, by the forms of the House, affidavits could not be admitted, he presumed that it would be required those points should be established at the bar. He was ready to assume therefore that the attorney-general was prepared to do so, and he should oppose the present application on very obvious grounds. The prosecution had been commenced (and he only used the word prosecution for shortness, as, for aught he knew, this was nothing more than an amicable suit, and most of all unlike a prosecution), and the prosecutor had had full time to prepare himself: for months and years he had known that it was to be brought into court; he had chosen his own time, and he had, above all, begun it with a debate staring him in the face, originated on the part of her majesty, and in which the attention of the attorney-general was called most especially to this point. "Do not begin," said the counsel for the Queen, "before you are quite ready, for delay in the commencement is comparatively of no importance, but delay interjected in the middle after the accusers case is closed, may lead to the most mischievous consequences." A delay, however, between one part of the prosecution and another had never entered into their imagination, and the argument was directed against any interval between the case for the accusers and for the accused; but, let it be observed, after this the attorney-general did not go on at once; he took an additional three weeks to prepare his case—he would not proceed *instanter*, as the Queen's message, and her counsel, most earnestly entreated, but he insisted upon waiting three or four weeks, under pretence that his witnesses were not ready. The House had granted that delay; it had granted it on the distinct understanding that on the 17th of August he would be fully prepared for his undertaking. This delay having occurred, a strong disposition prevailed on the part of the counsel for her majesty, that three or four days further time should be allowed for their personal accommodation: they were told, however, that it was impossible, that no noble lord could propose it, and although the Queen's solicitor-general and himself were in an infirm state of health, and though medical certificates could have been produced to show that six or seven days might make all the difference between sickness and health, and between danger and security, they were told that delay was totally out of the question. Yet now, in the face of all this, the attorney-general came forward and told the House that he was expecting three or four more witnesses, and that he must be allowed to stop, to mend, and patch up his case by the testimony of some frightened Luganians. He asked, if there was any thing like fairness—any thing like equal treatment, in this—whether referring to the analogy of other trials, a prosecutor was to be allowed to pause in the middle, until he could hunt up new evidence to prop his case, that could not stand without fresh support? If any impediment had been put in the way of the

witnesses by her majesty, which was not pretended, there might be some ground for such a request; but was the House, merely because this story (to which he would not give the vulgar application due) was told from Beauvais, to grant time for the collection of new evidence and the promulgation of fresh slanders? He did not say, that the attorney-general would abuse the interval so to be allowed—he was incapable of it: he did not say that those who sent him here (whom he did not know, because every time they were mentioned they were veiled in additional obscurity) would abuse it; but he entreated the attention of the House to the consequences that might result from a concession of this kind for the purpose of defeating the ends of justice. In ordinary cases the absence of a material witness in the middle of a trial invariably led to the acquittal of the defendant, and he felt satisfied that even in this unprecedented proceeding, their lordships would not consent to this most unprecedented demand.

Mr. *Denman*, before he followed on the same side, wished to know at what time these supposed witnesses were at Beauvais?

The *Attorney General* replied, on the 27th of July.

Mr. *Denman*.—On the 27th of July these witnesses rerurned from Beauvais, because they had heard rumours of what had passed at Dover. He requested their lordships to ask themselves, whether if any of the witnesses for the defence had been alarmed by reports that the Alien bill would be put in force against them, or that the English ambassadors at foreign courts—active agents against the Queen—were using their utmost efforts to bring them into trouble, they would think it a sufficient ground for delaying the progress of the defence; more especially when it had been commenced at the time chosen by the counsel for her majesty, and when, therefore, they came plighted to pursue it to a conclusion. Yet such, in truth, was the request on the other side regarding witnesses who were to be here four or five days hence, and who might have been here four or five days ago, if ordinary diligence had been used by the agent who had them in his charge. Where was this to stop? Was the attorney-general to be permitted thus to supply defects in every instance where he had completely failed in establishing the facts he had opened? Was he on such paltry pretexts as these to introduce fresh cargoes of Luganian witnesses? What agent would not in future take care to neglect his duty, if it were to place his employer in a situation so advantageous? When would the prosecution be terminated, if excuses like these, which would be scouted in every court of the kingdom, were accepted by the House, to induce them to abandon all the known forms of justice? From day to day opportunities for preparation and completion had been afforded to the other side; and now, in the last hour of trial, when that period had arrived for which the Queen had been so long and so anxiously waiting, she was told that she was to be again exposed to the pelting of new dirt, by reinforcements of supplemental witnesses. Surely from every quarter she had enough to complain of, without being subjected to this additional suffering! To consent to the application would be the most gross and intolerable injustice; and he was confident, that the honourable minds of their lordships would refuse at once to subject to it that illustrious female, who for weeks had been the victim of calumnies to which the attorney-general had not even ventured to allude. He entreated the House to have some consideration for the feelings of that illustrious lady, at the moment when she expected to be called upon for that defence with which she was fully prepared, and which would clear her from all the foul aspersions cast upon her character and conduct. In no cases but those protracted prosecutions for treason had adjournments taken place from day to day; but, here, not the slightest ground had been laid for the motion; and recollecting the weight of imputation resting on his illustrious client, he was confident that in their lordships she would at least in this respect find a bulwark and protector against the additional attack now so unjustifiably made against her.

The *Attorney General* commenced his reply by complaining of the unfair opportunities taken by the other side of deviating from the real question for the sake of making declamatory addresses, and offering insinuations against the witnesses already produced. He had also some reason to complain of the manner in which the present application had been treated. It had been said, that the object was to mend and patch up the case of the supporters of the bill; but, after having

stated the particular circumstances, he appealed to their lordships whether this charge were deserved, and whether the motion was not founded in reason and justice? It has been asked, why the request was not made on the 17th of August; but the answer was clear—because there was then every reason to suppose that the witnesses would arrive in time for the inquiry. Next, it had been said, that the agent had neglected his duty, when the fact was, that no agent had been employed to conduct the witnesses, and there was every reason to suppose from their conduct, that they were willing to give their testimony. The *procès verbal* before the magistrate of Beauvais, which he held in his hand, was decisive as to the real cause of the delay. From the endeavours used there was now every reason to believe, that the witnesses were actually on the road, and this was not the first time they had been heard of. The order of the House, under which he attended, desired him to produce the evidence in support of the bill, and this was a part of the original evidence; they were no new witnesses, their names and the nature of their depositions was known, and but for an accident some of them would probably by this time have been examined. It had been urged that ample time had been allowed to the prosecutors, as they were called, to prepare; but he had had no notice to attend until the second reading had been fixed; and when he had opened his case, he had done so in the firm persuasion that all the witnesses would arrive in time to support the statement. Their lordships would deal with the application as they thought best; but he had done no more than his duty in requesting that time might be allowed for the procuring of that evidence which the House had ordered him to produce. It was a little singular that this objection to a short postponement should come from those who had obtained a delay for the purposes of more effectual cross-examination.

The *Lord-Chancellor* thought, that the House would find infinite difficulty in arriving at a decision; but, in his opinion, the question would not be fairly raised until proof had been given at the bar of the cause of the detention of the witnesses, their materiality, and other circumstances of a like nature. It would be very dangerous for the House to proceed to a decision upon any case merely assumed. He wished, therefore, to know what the Attorney-General was prepared to prove in this respect; and also to be informed whether the transactions to which the witnesses were to swear had been included in his original opening. Then might arise a question, whether the counsel for the Queen were prepared to go into the further cross-examination of the witnesses already produced; and if in the interval, and before the summing up of the Solicitor-General, the witnesses arrived, the subject would be attended with less embarrassment. He did not mean it to be at all understood that he should be ready to accede to the present proposal, because it required most deliberate and anxious consideration.

The Counsel were directed to withdraw.

The Earl of *Liverpool* did not rise to offer any opinion, but merely to state a few points for the attention of the House. He admitted that the special grounds ought to be established at the bar, and he took it to be quite clear, in the first place, that, until the case of the Attorney-General was closed, it was competent to him to bring forward any evidence with which he might be furnished. If this application had never been made, the Attorney-General would have been entitled to call on the other side to finish their cross-examinations before he concluded his case. If the Queen's counsel replied that they had not the means of doing so without an adjournment, then the case of the supporters of the bill would be still open, and, without any request of this kind, they might call and examine the Luganian witnesses. If, on the other hand, the Queen's counsel required no time for cross-examination, then, of course, it would remain for the other side to submit to the House what course it would be proper to adopt. The facts to be proved by these new witnesses had been opened to the House by the Attorney-General.

Lord *Erskine* felt it his duty to oppose, in the first instance, such an outrage upon public justice, as that of interposing a delay in the middle of a case, for the purpose of producing fresh witnesses. No such instance had ever been heard of in any court of justice. Indeed, so decidedly averse were the courts to interpose delays in the course of justice, that in the instance of the assassination of

Mr. Perceval, the court refused to give time, on an application on behalf of the prisoner, who was tried for murder, to send to Liverpool to obtain witnesses to prove his insanity. This was on an application to put off the trial; but an application in the middle of a trial on the part of the prosecution, to interpose a delay for the purpose of obtaining fresh witnesses, had never before been heard of in any court of justice. To grant such an application would be subversive of all those principles upon which the security and the life of every individual in the kingdom depended. He could not believe that their lordships would agree to it, but if they did, he should feel it his duty to enter his solemn protest against such a decision. He had attended with great inconvenience to himself, at his advanced age, to state upon points of law or evidence, whatever his long experience in courts of justice enabled him to do; but if such an application as the present was agreed to, his attendance would be useless, as his knowledge or experience could afterwards be of no avail. With regard to the decision respecting the cross-examination, he certainly never understood that if the cross-examination by the counsel for the Queen was postponed, that that was to authorise the production of fresh evidence in behalf of the Bill.

The Earl of *Liverpool* proposed postponing the further debate until to-morrow.

The Earl of *Carnarvon* observed, that the attorney-general ought first to be asked whether he was prepared with evidence to support his application.

The Counsel were again called in.

Lord Chancellor.—Mr. Attorney-General, do you propose, and are you prepared, to enter into any proof of the circumstances on which you found this application?

Mr. Attorney General.—My lords, I think I shall be able to lay before the House such proof as would be received in a court of justice.

Mr. *Brougham.*—We submit to your lordships that as my learned friend is not even ready to say that he can prove this—

Lord Chancellor.—The question was put by the House to the attorney-general, and no other person is authorized to interpose. Are you now prepared to enter into any proof of the circumstances on which you found this application?

Mr. Attorney-General.—I will state to your lordships what documents I have, and what I shall be able to prove before your lordships. I hold in my hand the original *procès verbal* taken before a magistrate at Beauvais, which will disclose the facts to which those witnesses deposed before him. I shall be enabled to satisfy your lordships, undoubtedly, that these persons are in my judgment material witnesses, and it would ill have become me to have made this application to your lordships if they did not speak to facts to which I referred in my opening. I shall also be able to lay before your lordships the only evidence which I believe is ever required in the courts below; I mean the statement of persons, from the letters that have been received, that they believe the contents of those letters are true. I believe, in an application of this kind in the courts below, that is all that is required. When I made the application to your lordships I was not aware in what manner it would be received by my learned friends, and by your lordships. I beg to repeat, that I thought myself doing no more than my duty in making it. Having made this application, it is for your lordships to deal with it. I trust I shall be considered as having done no more than my duty imperiously called upon me to do.

Mr. Solicitor General.—Your lordships are aware, that in an application to a court of justice to put off a trial, on account of circumstances that have come to the knowledge of the party making that application, the evidence by which that application is supported, is of a very different character and description from that which it is necessary to introduce into a court of justice in the conduct of the cause. All that is necessary on the occasions to which I refer is, in the first instance that a party shall make an affidavit, that he believes the witnesses to be material, and that he is informed and believes that these witnesses will arrive at the time indicated in the affidavit. He is also to explain, not by the positive oath of an eye-witness, but from the information and belief of the party making the affidavit, that such and such facts have occurred which have had the effect of preventing the arrival of the witnesses; and I undertake to say, that if an affidavit were transmitted to this country, sworn before a notary in a foreign country, stating that such and such circumstances had occurred preventing the arrival of a

particular witness in this country, and the party receiving that document were to annex an affidavit stating, that he was informed and believed the contents to be true, that that would be quite sufficient to support the application.—Now, my lords, I am aware that it is not competent for us to make an affidavit at your lordships bar, for the purpose of supporting this application; but I apprehend, that if we are in a condition to submit to your lordships precisely that character of evidence which would be sufficient for supporting an application of an analogous nature, if made in an ordinary court of justice, your lordships will consider—whatever opinion your lordships may entertain with respect to the application itself—that the ground of the application is at least sufficiently laid, in order to support the application made at your lordships bar. Now, my lords, we are in a condition to do this. We have before us an affidavit sworn abroad. We are in a condition to make the necessary affidavit, that we believe these witnesses to be material and necessary; and that we believe the document before us is true in all its parts. We are therefore at present in a condition to make such a case in point of fact, for the purpose of supporting this application, as would be sufficient to support the application if it were made before an ordinary tribunal. Under these circumstances, I think your lordships will be of opinion, that though we have not sworn an affidavit, we have not been neglectful of the duty your lordships imposed upon us—that we are in a condition to do that which is required of us—and that, so far from neglecting our duty in conducting this proceeding, we have, with a pain and an anxiety, which no individual but those placed in our situation can possibly estimate, gone through all the details of this most distressing inquiry.

Mr. *Brougham*.—My lords; I have nothing to trouble your lordships with, except to state—

Lord Chancellor.—The question the House wish to put is, whether you would be prepared to go on with the cross-examination which is reserved to you, if they closed their case now?

Mr. *Brougham*.—Your lordships will see, that the resolution I have come to, in conjunction with my learned colleagues, must be hypothetical—it must always be on a consideration of what case may be made out; and if these witnesses are believed (which I cannot conceive to be possible), or if they are not believed, I trust that no application will induce your lordships to delay the case till new facts are proved. If your lordships should, the resolution I have come to now may be wholly altered and rescinded by that event; but if your lordships call upon me to state now, what would be my course upon the supposition of my learned friend, the attorney-general, now telling your lordships that his case is closed but for my cross-examination, and that unless I delay my cross-examination he has done—on my part I have no hesitation in stating to your lordships, that upon this supposition, and in this case, I propose to ask your lordships to call back one of the witnesses, and to put three or four questions to him, and then to close.

Adjourned till to-morrow.

HOUSE OF LORDS.

Thursday, September 7.

The House having been called over, and the order of the day read, for the further consideration and second reading of the Bill of Pains and Penalties against her Majesty, the counsel were called in.

Mr. Attorney General.—My lords; I think it right that I should state to your lordships, that within the last half hour I have received dispatches from Milan, and from which I find that longer delay than I had anticipated yesterday must take place before the arrival of the witnesses to whom I alluded. I think I ought, in justice to myself as well as to your lordships, to state that fact; and under those circumstances to withdraw the application which I made yesterday.

Lord Chancellor.—My lords; it cannot but give your lordships pleasure, that this application should be withdrawn. The House, however, will permit me to say, that I think the attorney-general having in a general way stated in the opening of his case, the transactions to which that application alluded, he would not have done his duty to this House, under the state of the information which he had yesterday, if he had not submitted that application to your lordships consideration.

Mr. Brougham.—Then, my lords, considering my learned friend as saying, that this is his case, unless something which I shall do in the way of deferring my further cross-examination should induce him to call other witnesses—taking that to be

the position in which we now are—I beg to call back Theodore Majoochi, for the purpose of putting one or two questions; and then I shall give your lordships no further trouble in cross-examination.

Then *Teodoro Majoochi* was again called in, and further cross-examined as follows by Mr. Brougham, through the interpretation of the Marchese di Spineto.

Do you know one Julius Cæsar Gavazzi? I never heard this name of Julius Cæsar Gavazzi; I do not know the name.

Do you know the name of Gavazzi? In Italy I have heard this name of Gavazzi, and one is a jeweller in the Coperto dei Fugini at Milan; I have seen him, and he is a fat man; he lived there, but I never was in his shop.

It being suggested whether the whole of the answer had been translated, the interpreters were asked, whether the witness had said that he understood the person lived there, but he did not know it.

The interpreters both answered, that they did not hear that stated by the witness.

I heard of this Gavazzi by name, and whether he was the Gavazzi or not, I cannot tell.

The question refers to a Gavazzi who lives in Greville-street, Hatton-garden, or who did live there last February? I remember that this Gavazzi told me that he was a relation of this Gavazzi of Milan, for when I came here to London I met with this young man, and he told me he was a relation to that of Milan.

The question refers to this Gavazzi, and not to the other, who you have stated was the only one you knew? But I have known this young man Gavazzi only during the few days I have been in London.

Did not this London Gavazzi and you dine together last winter for eight or ten days together? Not for eight or ten days, I was not here ten days.

Did you not dine with him once or twice in the same place? Yes, I remember I did; I dined with him twice, and we ate some rice.

Now that you recollect it all so accurately, even to the dinner, was not this a short time before the death of his late majesty? The king was already dead.

Was not it about the time, near the time, of his majesty's death? After the death of the king.

Do you mean that it was immediately after the death of the king? I think, as far as I can remember, that I arrived here on the day when they were telling me that the king was already buried.

Did not you show Gavazzi a letter which you said you had received from some person? What I had received was a letter that came from Milan from my wife.

The question does not refer to that letter at all, but did you not show him another letter, which you told Gavazzi at that time you had received from some persons here to carry abroad? What I remember is, to have shown him the dispatch which I had received to carry abroad, and I showed only the address, the outside.

Was not that a dispatch which you were to carry to lord Stewart? It was.

Did you not also show a number of Napoleons which you had received at the same time that you got the letter? Yes, for my journey; I counted them there.

How many Napoleons did you so count? I believe there were eighty.

Will you swear there were not 150?—I cannot swear, but what I remember is, that there were eighty, and I can swear that they were eighty Napoleons in gold.

Did you not tell Gavazzi at the time, that whoever gave you this had given you more than you asked to pay your expenses? He cannot say so, because I have asked only the money to make my journey.

Will you swear you did not tell Gavazzi that they gave you more than you had asked to pay your journey? I cannot swear any such thing, because I have asked for nothing else than the expenses of my journey, and Gavazzi cannot say to the contrary.

Will you swear that you did not tell Gavazzi, that whatever you asked, they gave you more than that? But I cannot swear to have asked for more, nor can he say that I asked for more, and as I have once sworn to this, I cannot swear to this a hundred times.

Will you swear that you did not say to Gavazzi, that you had got more than you asked? I never said so; no.

Do you know one Joseph Visetti? I do not know the name of Giuseppe Visetti.

The question refers to a person who lives near Liquorpond-street? You may say Liquorpond-street, for I cannot remember that; I came here in a sack, and I went away in a trunk, and I do not know the English language, and I cannot remember.

Though you knew nothing about Gavazzi, you recollected him perfectly well the moment you were told something about Hatton-garden? I recollected it because I knew the name of Gavazzi, not because I knew the garden; for I did not go reading what is put at the top of the streets; I do not know the English.

Do you remember an Italian that dined frequently at the same place where you and Gavazzi dined? There were many Italians who came there, sat down, and ate the rice which was prepared.

Did you not know an Italian whom you met there, who accompanied you frequently up and down London, to show you the way, and to explain things to you? That is true; because he served me as a lacquais de place.

What was his name? I never asked him the name by which he went.

Do you not know that he was a cabinet-maker? It was said that he was a carpenter or joiner.

Do you remember going with him, either on the day or the day after the late king's funeral, to the west end of the town? Where did I go?

To the west end of the town? He carried me about, and brought me here and there, and told me this place is this, and that place is that; and I did not know whether that was this or was that, and how can I remember?

Did you not go with him, in the way you describe, somewhere or other on the day of the king's funeral, or the day after it? To look at the funeral do you mean?

No, not to look at the funeral? I have been with him in several places; he was telling me that on the day they went to see the king, but I never went.

A Peer here interfered, and observed, that the witness had not used the word "funeral."

Mr. *Brougham* complained of this interference. He was not to be interrupted in this way. Their lordships must be aware that he was obliged to pay the greatest attention to the course of the cross-examination, and yet a noble lord thought fit to object to a term he had used, and thus prevent him from proceeding. He desired to know whether their lordships allowed him to put the question.

Lord *Exmouth* moved, that the counsel do withdraw; which being ordered, his lordship said he was not the noble peer who had said, that the witness had not used the word "funeral," though the learned counsel directed his looks to him. He would maintain, however, that he or any other peer had a right to interpose to correct a question which might appear improper, without any counsel checking them or staring them in the face. He came there to sit as judge, and to vote on his honour and his oath, and was not to be lectured by any counsel whatever.

The Marquis of *Lansdown* thought, that the proper course of proceeding, when any noble peer wished to interpose, was, first to move that the counsel withdraw. This, he thought, should have been done, if it was wished to ascertain whether the witness meant that people were going to see the king, or the king's funeral.

Lord *Redesdale* observed, that in his opinion, noble peers had been several times insulted by the remarks of counsel in the course of the present proceedings.

The Counsel were again called in.

Do you mean to say, that it was on that day that the young man told you people were going to see the king's funeral? He told me that the people all went twenty or twenty-one miles to see the funeral of the king; but whether it was true or not true, I do not know.

Did you go with that young man to any particular house to call there? I remember to have called in some street upon some gentleman whom I do not know; I carried a letter, and a servant told me, that he was not at home, because he had gone out to see the ceremony of the funeral of the king.

Was that a large house? I do not know whether it was large or small; I was not there to look at it; I went to the door, I was answered that he was not at home, when I went away.

Did you go that day with the young man, the lacquais de place, to any other house? Yes, because I had another letter, and even there I did not find the account (il conto); and that day we could not find the house, for we went here, and we went there, and could not find the address.

Do you mean to say you called at a house with a letter to carry to somebody, and could not find that person at home? Not on that day, but on another day; for on that day we went here and there, and could not find the account (il conto).

On that day, or on the other day, did you go to find any person in a very large house? But how am I to know whether it was large or small, I do not make observations of these things; I went to the door, and I did not make observation whether the house was large or small.

Did you, on either of those occasions, go into a house where there was a centinel standing at the gate? Was that on the same day when I went with that letter, for you must give me a more clear explanation, for I went into three or four houses.

Did you, on any of those occasions, when you were accompanied by the lacquais de place, go into any large house where there was a soldier standing centinel at the door? That was on the first day of my arrival in England, when I was told that that was the house where was the court of the king, for I had three or four letters.

Did you ever go to that house again? Yes, I went to and from this house.

Do you mean that you went several times to and from this house? I do.

Upon those occasions did you go into the house, and leave your lacquais de place at the gate? The first time I left him out at the door.

Did you not leave him at the door also the other times when he accompanied you to the house? What I remember is, at the house where there are the soldiers, to have left my lacquais de place out at the door.

Do you mean to say, that the other times you were there your lacquais de place went into the house with you? Whether he came in or not I cannot tell, I left him there, and I told him to stop; whether he afterwards came in I cannot tell.

Did you find him there waiting for you, when you came out of the house, upon those occasions? I have not measured the place, what I remember is, that I found him there waiting for me when I went out.

Upon one of those occasions did you come

out with a gentleman, whom you found in the great house? Yes, I did.

Did you go from thence with that gentleman to his chambers? No.

Did you not go with him somewhere? With this gentleman I went no where.

Who was this gentleman that you came out with? What I remember is, that it was Mr. Powell.

Will you swear that you did not go with your lacquais de place and Mr. Powell immediately from what you call the Corté to Mr. Powell's chambers in Lincoln's-inn? With Mr. Powell I did not go.

Did you not at that time make an appointment to go the same evening at six o'clock to Mr. Powell's chambers? I did.

Did you not go that evening, according to the appointment? I did.

You are understood to say, that you went several times backwards and forwards to that house with your lacquais de place? Yes.

Did you not upon one of these occasions go from Mr. Powell's with a note to that same great house? I did.

Did you go in upon that occasion too, and leave your lacquais de place outside the gate? I believe to have left him outside the door, but I cannot say for a certainty.

Was not this great house Carlton-house? The name of the house I never heard, it was said it was the house of the king.

Were there pillars before the door? I know that the people entered by a small door, and as soon as they got in there was a porter.

Did you see no pillars upon the house? I saw some ancient Grecian columns, but I paid no attention to them; I saw the columns.

After you entered the outer gate was there a court in the inside between the house and the street? There was a court between the house and the columns.

Had you any conversation with Mr. Powell about your expenses in the presence of your lacquais de place? I do not remember.

Did Mr. Powell say to you, in the presence of the lacquais de place, that money was no object, and that you might have more if you wanted it? No.

Will you swear that? I swear that Mr. Powell never said that.

Will you swear that he never, in the presence of that lacquais de place, said any thing to that purport? Mr. Powell never held this sort of discourse.

Perhaps Mr. Powell never spoke to you at all about this business of the Queen?

The Attorney General objected to evidence of the declarations of Mr. Powell.

Mr. *Brougham* appealed to their lordships. Was it meant to be said that he could not, upon cross-examination, ask this question? Was it meant to be contended that it was an irregular question? *Non constat*, that Mr. Powell had said this or any thing else. Her majesty's counsel knew not Mr. Powell; they had not upon the record any description of Mr. Powell; but any thing he might have said was as much and as fair matter of evidence in this case as any thing else.

Mr. Brougham was informed, that he was entitled to ask this witness, whether Mr. Powell did or did not say such and such a thing to him, with a view by-and-by, if he desired, to call Mr. Powell to contradict him.

Mr. *Brougham.*—Do you mean to represent that you never had any conversation with Mr. Powell on the subject of the Queen? On what do you mean; I do not understand what you say.

Do you mean to say that Mr. Powell has never spoken to you upon the subject of the Queen? Mr. Powell spoke to me on this business at Milan, when I made my first deposition; but after that we have never spoken any more upon this subject.

Did you ever see this letter before [a letter being shown to the witness]? I never saw it; I do not know how to read.

Do you know a Mr. Long; a person of the name of Long? I am not acquainted with such a name as Long.

Were you ever at the Globe-tavern, the place where you used to meet Gavazzi and the others at dinner? Yes, I met them, but I do not know the name of the tavern, for I did not look; and I do not know how to read and write.

Do you know the master of that tavern? If I were to see him, I should know him.

After your first examination in this place, have you ever seen either Mr. Powell or his clerk? Yes, I have.

Have you seen them, or one of them, frequently? Yes, I have seen him sometimes, for he comes into the place where we are, and I have seen him sometimes, but I cannot recollect precisely the number of times.

How long were you ever with him or them at any one of those times? I have seen him coming to others, and I merely paid him my respects; and I saw him the other day when he came to ask for my certificate.

Turn and look at this person; is that the master of the house? [A person stated to be of the name of Joseph James Long, being pointed out to the witness.] Yes, I know him.

Did you employ that person, not being able to write yourself, to write a letter for you to a Mrs. Blackwell? He has written twice for me, once to Mr. Hyatt, and the second time to Mrs. Blackwell.

Should you know either of those letters again if it were to be shown to you? I have not seen the letters, because I told him, "Do me the favour to write for me," and he wrote those letters, and then he told me, "Here are the letters which I have written," but I never took them, and I cannot recognize them.

Mr. *Brougham* stated, that he proposed to

ask the witness, he not having written the letter, but employed another, whether he did not state certain things which he begged Mr. Long to write.

The Counsel were informed, that they could not give any evidence of the contents of a letter, but that they might ask the witness whether he did or did not desire A. B. to write a letter to such and such effect.

Did you not request Mr. Long to write a letter to Mrs. Blackwell? Yes, I have begged him to write a letter in my name.

Did you tell him to write it in this manner: "I have safely delivered the letter to your brother, and he was quite well, and desires to be remembered to you kindly?" I told him to write to the following effect: "I have not found your brother at home, but I have left the letter in the hands of his wife; that they are well, and I beg to make my compliments to the family," because I was going away.

Did you not add in your instructions to Mr. Long, "I have got a situation, and am going off this evening to Vienna?" Yes, that I had got a place, and was setting out for Vienna.

Did you not desire in that letter to give your kind regards to Mrs. Hughes, brother, Madame Catalani, M. Bodeno, and a Mr. Daniel? Whose brother?

Meaning Mrs. Hughes's son, whom you were accustomed to call brother? As an act of friendship.

Do you mean that you used to call Mr. Hughes, brother, as an act of kindness and friendship? Yes.

Did you desire Mr. Long also to write, "After I left you all, I could not eat, nor drink, nor sleep; so God bless you all?" As when we were together we played and joked among ourselves, so when I was writing to them, I said to Long to write, as a matter of compliment, "I cannot eat, or drink, or sleep; so God bless you."

Did you ever propose to marry Mrs. Blackwell? Yes; I wanted to marry Mrs. Blackwell, Mrs. Hughes, and every body in the house that would marry me.

Were you ever in Paris in the year 1818 or 1819? I was not.

Were you ever there in 1819? I never have been in Paris.

Re-examined by the *Attorney General*.

You have been asked respecting some Napoleons which you received before you went to Vienna; in what capacity was it that you went to Vienna? I went to Vienna as a courier.

Did you receive any directions to travel to Vienna with all expedition? Yes; I was ordered to go as quick as possible.

For what purpose were those Napoleons given you before you went to Vienna? To pay the expenses of the journey.

Were you to account for those Napoleons? I was.

Did you account for those Napoleons? Yes, I gave an account of my expenses at Vienna.

You have been asked, whether you took a note from Mr. Powell to the great house of which you have been speaking, for what purpose was it you took that note? As far as I can recollect to obtain a passport.

Upon that occasion, into what part of the house did you go if you went into the house at all? I went to the outer gate, and then I went through the court, I turned to the left hand, mounted a few steps, and went to the door and rung the bell, a servant came, and I gave him the note.

How long did you stay upon that occasion? About half an hour, not longer.

Were you directed to go any where else for your passport, and did you go elsewhere? I did.

Where? The Austrian ambassador's.

Did you, upon that occasion, get your passport? When I showed the note, they gave me the passport.

Do you recollect whom you saw at the great house upon that occasion? I saw a footman, and I saw a German, who talked to me in German.

You say you were there at other times; at any other times whom did you see at that great house? A big man, rather a handsome man, who did not talk either French or Italian, and spoke to me by signs.

For what purpose did you go to that house? The first time I went to carry a packet, and then I said that I must have a receipt for that packet, for I cannot give it without a receipt; and this was the object of my first going, because I was obliged to deliver it in person.

Did you bring that packet over with you, when you came over with Mr. Hyatt? I had it in my pocket.

How many times altogether did you call at that house, according to the best of your recollection? What I remember is, that I have been there three times.

You have stated what you went there the first time for; do you recollect for what you went there the other two times? The second time I went to see whether there was any answer to the packet for which I had had a receipt; the third time, because they had told me to call again; I had got no answer.

Was it the third time, or another time that you went there upon the subject of your passport? Then I went another time for the passport.

Examined by the *Lords*.

Earl of *Rosebery*.—Did you go alone to Vienna, or in company with any other person? Alone, alone, alone.

Who then kept the account of the expenditure of the money? I was alone, and I was obliged to keep it myself.

Earl *Grey*.—How could you keep that account, when, as you have stated, you can neither read nor write? The book of the post teaches all, shows all expenses.

You are understood to state, that you can neither read nor write? I know only to write my name very ill, and hardly that.

That is all you know? I am not fit either to write letters, or to keep accounts.

The following Extract was read from the printed Minutes, page 141.

"How long were you in England at that period, when you lived with Mr. Hyatt at Gloucester? This I cannot remember, because I have not the book in which I have marked the time.

"About how long were you in Mr. Hyatt's service? This is the same answer, because I have not the book in which I put down how long I was there."

How do you explain that? Non in cui ho marcato, but, di marcare.

Interpreter.—It appears to her majesty's interpreter, as well as to myself, that he means, that he has not the book in which he used to mark.

Do you mean to say, that you have not the book in which you put this down, or that you kept no book in which you entered such things? I said I had no book of any sort to mark upon, for I do not know how to read or write.

The interpreter was asked, what he conceived to be the literal meaning of the words "quanto mi recordo," which had been frequently used? to which he answered, "according to the best of my recollection."

The interpreter was asked, whether "I came in a sack, and went away in a trunk," was not an Italian proverb? to which he answered that it was.

The Witness, and also the Counsel were directed to withdraw.

The Marquis of *Lansdown* said, he would take that opportunity, before the summing up of the counsel, to call the attention of the noble earl opposite, and of the House, to a letter which had that morning appeared in all the public journals. The letter was dated, "Milan, Aug. 21, 1820," and purported to be from M. Marrietti to his son. One of the learned counsel at the bar had commented yesterday upon the extraordinary contents of that letter, and had also mentioned the communication which he had upon it with the noble earl opposite. He (the marquis) had not, however, seen this letter until he read it in one of the morning papers. Now that it had gone before the public, and would, no doubt, be copied into the public prints all over Europe, he felt it to be his duty to bring the subject formally before their lordships, for the purpose of its receiving that explanation which he trusted would relieve his majesty's government from the imputation which the letter was otherwise calculated to reflect upon them. For this purpose he begged leave, first, to ask the noble earl opposite, if his majesty's government had had an accredited agent of the name of colonel Brown at Milan, to whom instructions upon the subject of his mission had been sent? In putting this question, and alluding to the office of colonel Brown, he begged by no means to be understood as putting it for the purpose of entering into the propriety or impropriety of the colonel's conduct, whatever it should turn out to be. If it were proper to entertain such a charge as this—a point upon which he did not mean now to enter—he was free to confess, he did not know how the charge could be proceeded upon or substantiated without there being an accredited agent abroad to superintend the transmission of evidence. But the moment the government had sent that accredited agent abroad, his language and conduct became fit matter for inquiry, so far as it was calculated to involve or compromise the character and dignity of his majesty's government. It was in that view only, and not for the purpose of reflecting upon the office of the agent, if such he was, that he now solicited an explanation from the noble earl opposite. In doing so, he was very far from imputing to the noble earl opposite, or to his colleague, the noble secretary of state for the home department, that they had ever entertained any intention of giving instructions to an accredited agent, the effect of which must necessarily be, the employment of that agent abroad, under the authority and influence of his government at home, in an improper interference to obstruct the course of justice. But their lordships would see, from the nature of M. Marrietti's letter, that it was not sufficient the disclaimer of his majesty's government should be confined to the learned counsel who first called the noble earl's attention to the letter, but that it should also be made in the most public and formal manner. It was not enough, that if, upon any occasion, an agent abroad should be found to violate his duty (and to travel out of his instructions must be deemed a violation of his duty), that

those who employed him should merely say, that he had no instructions to commit their name to any purpose of threat or intimidation: they must go further than that, to perform their duty to the public. The letter to which he alluded, came from M. Marrietti, a banker at Milan, than whom a more respectable person did not exist. The paragraph in that letter to which he called their lordships' attention was as follows:—"The object of this, my letter, is only to inform you, that it has been written to colonel Brown, here, that you behaved yourself ill, relatively to the things which interest the royal court and the Princess of Wales; for which reason you are watched to such a degree, that it has been in agitation, that a command, called the Alien bill, should be signified to you to leave the country; and especially for the express reason, that you have sought to discover from this M. Sacchini, a Milanese, what he had deposed against the above royal princess." This paragraph contained a severe charge; what could be more unjust than to threaten a person under such circumstances with the terrors of the Alien bill? Such an interference, if made, was most unjustifiable; and the more particularly when the conduct of the individual against whom it was levelled, was within the strict limits of propriety and justice. Now, if this letter should ultimately prove to have been written by colonel Brown, and that he was an accredited agent of his majesty's government—and if it should, as he had no doubt was the fact, prove to have been written without the sanction of the government at home—then the king's ministers were not only bound to disavow the intention imputed to them, but to demand from their agent an explanation of his conduct. If agents abroad could be suffered to act in this manner without reproof, then the language used by them would necessarily be considered as involving the character of the government at home; and of course, from its natural influence, would create an indisposition abroad, on the part of foreigners, which would prevent their coming here at any time to perform that duty which justice might require, and which otherwise they would be very willing to tender. On these grounds, he felt it to be his duty to put the following questions to the noble earl opposite, on the subject of this letter:—First, was colonel Brown an accredited agent of the king's government abroad? and, secondly, if he were such, whether his majesty's ministers, when they were apprized of this letter, had taken any steps to ascertain from colonel Brown, whether he had acted in the manner imputed to him?

The Earl of *Liverpool* said, he had not the smallest hesitation in giving the noble marquis the explanation he desired, as far as it was in his power at the present moment to give it; and, so far from being surprised at the question, he felt thoroughly obliged to the noble marquis for putting it, and thereby enabling him to give the explanation which he was now about to offer. He begged in the first place to assure the noble lord, in the fullest and most positive manner, that he was wholly and utterly ignorant of there being such a person in this country as the younger Marrietti. He certainly did know that there was a respectable banker of that name in Milan; but he was utterly ignorant of there being any relative of his here, and his noble friend (lord Sidmouth) was just as ignorant as he was of that circumstance; so that it was clearly impossible for either of them to have had the most remote notion of applying the provisions of the Alien bill against a person, of whose residence here they were utterly ignorant. He could also assure the House, that they were as ignorant of even the sound of the name of the other person alluded to in the letter as any noble lord who now for the first time heard it. After clearing away by this explanation, which showed the utter impossibility of either his own or his noble colleague's intention to apply the Alien bill to M. Marrietti, of whose existence they were wholly ignorant, he would proceed to answer the more immediate question of the noble marquis. Before he did this, however, he begged to state, that at the moment when Mr. Brougham had apprised him of this letter, he authorised him to take the first and earliest opportunity of apprising the younger Marrietti, that he might live here with perfect impunity, as long as he liked, from the operation of the Alien act; that he might at once remove from his mind any impression of apprehension from the operation of that law. With respect to what happened at Milan, it was quite clear he was in no condition at the present moment to give a full explanation; for he could have no knowledge of what the occurrence had been which gave rise to this letter. As to colonel Brown, he had no

difficulty whatever in stating that he was a qualified accredited agent of the government respecting this case. The noble marquis had the candour to say, that if such a case as this was to be proceeded upon, it could not be substantiated without the appointment of some agent abroad. He was not himself acquainted with colonel Brown, but he had the assurance of those on whom he could implicitly rely, that a more respectable man than colonel Brown could not be found to be intrusted with such a business. On looking at the letter, he confessed that, with every disposition to place credence in what was said by so respectable a person as M. Marrietti at Milan, he very much doubted whether it referred as clearly and directly to colonel Brown as the noble marquis seemed to suppose. He was very ready to admit that it was liable to such a construction; but he still did not think the communication was conveyed in terms so decisive as to implicate colonel Brown; but this was mere conjecture on his part, and he agreed that the letter had some ambiguity about it. With respect to what had fallen from the noble marquis on the subject of making inquiry from colonel Brown, he had to inform their lordships, that, on the very day the learned counsel had communicated to him M. Marrietti's letter, he had not only disavowed it, but ordered a letter to be immediately sent to colonel Brown, desiring a full explanation upon the subject. It was obvious that he could do nothing more than what he had already done, as the matter stood; and it was equally clear, that, whatever should prove to be the result, his majesty's government could not, in the most remote degree, be implicated by it. He could assure their lordships, that, in every letter of instructions which had been transmitted to the government agents abroad upon this business, it was desired that every facility should be given the witnesses for the Queen in the same manner as to those of the opposite side. He still felt persuaded that colonel Brown, in answer to the requisition made to him, would have it in his power to make a full and proper explanation. The government had at present demanded that explanation, and they could do no more.

The Marquis of *Lansdown* expressed himself satisfied with the explanation given.

Lord *Holland* said, he could not help hoping that in the course of the investigation, the conduct of colonel Brown would appear justifiable. At all events, whatever might have been the conduct of the colonel and of those of whom he was the agent, the House and the country must look to the statute with a feeling of the strongest indignation. It was not to the possible lenity with which power might be exercised that he looked, but to the statute which lay before their lordships, the existence of which was calculated to operate upon men's minds, and deter them from acting the part towards the development of truth to which their conscience directed them. If colonel Brown had said what had been imputed to him to Marrietti, he had used an influence which no authority could justify; but, if the menace was merely in the apprehension of Marrietti, it was the law still that operated. However that statute might be acted upon by men, the law itself made an impression that would tend to the perversion of justice. If colonel Brown had so far forgotten his duty as to make use of the threat alluded to in that letter, then he must pronounce him, acting as a public officer, to be a great state delinquent. If the colonel was free from the imputation, then it was the impression of the terrors of the Alien bill that made Marrietti write as he had done; it was the fearful solicitude for the safety of his child that induced him to warn his son of what might be the consequence of offending persons in power in this country. So that, in either case, their lordships had a practical opportunity of seeing the effects of this most unwarrantable statute. He should not now detain their lordships by a repetition of his arguments against the impolicy of the Alien bill; but he must beg the House to recollect, that when he had opposed that bill, the character of the ministers who were to exercise its provisions was quoted as an argument—certainly not a very parliamentary or very wise argument in a free country—but it was quoted as an argument, to show the visionary nature of the dangerous effect which he had apprehended from the enactment of this statute. But did not the result support and justify his opinion, that the operation of this most impolitic law did not depend upon the character of those who were to administer it, but that it was in itself a law which, from its very nature, might operate to the perversion of justice? And here was an instance in which it was calculated to have such an effect.

The Counsel were again called in.

The *Attorney General*.—Am I to understand that the Queen's attorney-general does not contemplate any further cross-examination at any time?

Mr. *Brougham*.—At no time.

SUMMING UP.

Mr. Solicitor General—

My Lords; my learned friend, Mr. Brougham, the counsel for the Queen, having closed his third long and elaborate cross-examination of Theodore Majoochi, and the whole of the evidence which it is our intention to adduce in support of the allegations contained in this bill, being now before your lordships, it is my duty to address you in support of the allegations contained in the preamble of this measure; and I trust, my lords, that I shall be allowed, for a few moments at least, in justification of the conduct of myself and those learned friends of mine who are associated with me upon this occasion, to say a very few words as to the course which we have pursued, and the principles by which we have been actuated in conducting this most anxious inquiry. My lords, the moment my learned friend, the attorney general, received instructions from your lordships to lay before your lordships the evidence in support of the charges contained in this bill, he, in conjunction with myself and the friends who are around me, directed our most anxious attention to collect all the evidence that was to be adduced in support of those charges. We weighed—we considered—all the materials and every part of the evidence which we thought bore at all upon this question; every part of the evidence which we thought material to this inquiry; and without regard to the influence or the impression which it might create, we thought it our duty fully, fairly, and candidly to present it to your lordships. I trust, my lords, that in pursuing this course we have faithfully discharged the duty that your lordships imposed upon us. We felt we were not to make ourselves parties in this inquiry: we were acting under your lordships' direction; and we have pursued that course which I have stated, honestly, faithfully, and fairly, to the best of our judgment and our ability.

My lords; the task that is now imposed upon me is, to point out to your lordships attention, the leading facts contained in the evidence that has been delivered at your lordships bar. The difficulty which I have to combat with upon the present occasion is, that I know not what I am to oppose. I know none of the arguments that are to be offered by way of defence on the other side. I know none of the facts—if facts there be—upon which the defence of her majesty the Queen is to be rested. All, therefore, that I can do—all that my present duty imposes upon me—is, to show, in the present stage of the cause, and with the evidence which has now been laid before your lordships, how the allegations and charges contained in the preamble of this bill are made out and established.

My lords; I trust that in referring to the evidence (which I shall not trouble your lordships by reading), but in referring to the evidence which we have had the painful task for so many days of unfolding before your lordships, I shall not be guilty of any mis-statement or any exaggeration whatever. My duty does not impose it upon me to endeavour to enflame your lordships minds upon this occasion: all that is required of me is, to state with precision, and with as much accuracy as I am able, what is the substance of that evidence, and how it attaches upon those charges that are contained in the preamble of this bill. My lords, still more do I hope, that I shall not enter into any expressions (at least it will not be my intention to do so) derogatory to her majesty the Queen. It is my duty only to unfold the evidence, and I trust I shall be betrayed into no expressions of such a character and import. Her majesty is here upon her trial. One side of the case only has been heard: and I am bound, your lordships are bound, to presume she is innocent of those foul charges that are imputed against her, until, after the whole case has been heard on both sides, her guilt shall, if it ever should be, finally established.

My lords; we have been charged by my learned friends on the other side, with scattering calumnies and throwing dirt upon her majesty the Queen. We are free from that imputation. We have stated nothing that we had not reason to believe would be clearly and satisfactorily proved. The calumnies—if calumnies there be—are not ours. The facts have been stated at your lordships bar by witnesses sworn to tell the truth. It is upon that evidence, so delivered, that this charge rests, and

upon no statements of the counsel who are employed in support of this bill. But, my lords, when we are charged—when we are accused—of scattering calumnies, a charge which I repel, in the manner I have stated, let us look at the conduct of our adversaries. From the beginning to the end of this inquiry, we have been charged as persons concerned in a foul conspiracy—we have been charged with subornation of perjury—almost every individual who has appeared at your lordships' bar has been calumniated, I will say, as infamous, as perjured, as utterly unworthy of credit. Who is it then, my lords, that scatters dirt and throws calumnies about? Certainly not the counsel in support of this bill. If that imputation is to fix any where, it certainly fixes in a very different quarter.

My lords; we have also been told, and it was stated with great emphasis yesterday, that my learned friend's opening (a task so painful to his feelings to discharge) had not been established in proof—not only that that opening had not been established in proof, but that substantially it had not been established by the evidence adduced before your lordships. My lords, I beg leave, without at this moment entering into any detail upon the subject, to request your lordships to cast your recollection over the great mass of evidence that has been laid before you, and, answering according to the honest impression of your lordships' minds and feelings at this moment, answer me whether you do not think, not merely in the substance, but almost in all the details of this case, the statement of my honourable and learned friend has been made out and supported.

My lords; before I proceed further, let me for a moment recall your lordships' recollection to what the nature of this charge is: in other words, without reading the very words of the preamble of the bill, let me state to your lordships what is its substance and effect. It begins by stating, that her majesty engaged in her service at Milan, a man named Bartolomeo Bergami in the situation of a menial servant—that in a short time afterwards an intimacy of a disgraceful nature took place between them: that he was loaded with favours, with honours, with distinctions, by her majesty: that the members of his family were brought about her person, in various situations, more or less confidential; and that ultimately an intercourse of a disgraceful and adulterous character took place between them. My lords, that is the charge contained in the preamble of this bill—that is the charge to which the evidence is directed—and it will be for your lordships to say, when I come (which it is my duty to do) to recapitulate the heads of this evidence, whether that charge is not substantially made out and supported.

My lords; I must call your lordships' recollection back to what immediately took place upon her majesty's arrival at Milan. I conceive that all that I have to do is to be perspicuous in the observations which I have to make; and nothing will tend more to that perspicuity, and to the rightly understanding of the case, than, in a degree at least as far as the circumstances will admit, to pursue her majesty in the order of time, from her first leaving Milan up to the period when this evidence terminates at the Villa Caprili.—My lords, it is established in evidence, that at Milan, her royal highness took into her service the individual whose name has been so frequently mentioned—that he had been, for two or three years before, in the service of general Pino in a menial situation, earning at the rate of three livres a day—that he came into her majesty's service as a courier—that he waited behind her chair at Milan during a period of a fortnight, while her majesty remained in that city. Her majesty then left Milan and pursued her route to Naples. My lords, it has been stated and proved to you, that a young lad of the name of William Austin, then about twelve or thirteen years of age, had been in the habit of sleeping in her majesty's apartment. The night before her majesty's arrival at Naples, the party slept at a country house in the neighbourhood of that city; and then it was, for the first time, that her majesty said, that she thought this lad too old to sleep any longer in her chamber, and requested a separate apartment for him. On the following day, she arrived at Naples, and the day after her arrival, in the evening, as the witness Demont stated, her royal highness went to the opera. My lords, it is most material to attend, throughout this inquiry, to the relative situations of the apartment occupied by the Queen and that occupied by her courier. At Naples, the communication between them was of this description: there was a private passage terminating in a cabinet, from which

cabinet you entered into the apartment of Bergami, and the other end of the passage led directly to the bed-room of her royal highness: in traversing the passage and the cabinet there could be no interruption, because they led to no other place, they were a private passage and cabinet, and traversing the cabinet and the passage, you passed without interruption from the bed-room of her royal highness to that of her courier. My lords, the witness states, that her majesty, according to her observation, returned that evening early from the opera. She appeared to be greatly agitated; she went into the cabinet contiguous to the room of Bergami—she waited a short time, and then came back: she kept the servant but a short time, and declaring Austin must not disturb her, she dismissed the servant for the night, in a manner wholly unusual.—On the following morning, my lords, no doubt the suspicion of this witness and her curiosity were excited. The observation she made was this, that the small travelling bed of her royal highness had not been slept in that night; but she observed on the larger bed in the room, an impression, as if two persons had slept there. My lords, upon our examination in chief, your lordships are well aware, how we are fettered in getting out facts. Even the cross-examination did not elicit this fact which I am about to state; but a question put pointedly by one of your lordships, which could not be evaded, elicited this important fact, that, in addition to that fact, there were stains on the bed, of a character to indicate what had passed between the two persons who had slept in that apartment. My lords, I am told, and I have heard it said in high quarters, that no absolute adultery is proved in this case. If these facts be true, there is no man who hears me, fairly exercising his understanding, can entertain a doubt as to the fact of adultery; that adultery was committed on that night; and that this was the commencement of an adulterous intercourse between these parties.

My lords; allow me here to observe, that in all cases of adultery, the absolute fact of adultery can seldom be proved: it is not committed with open doors, of necessity; it is committed in secret and in private; and in all my experience among the numberless causes of this description that I have heard, I do not remember a single instance in which the direct fact of adultery was proved. It is inferred from circumstances more or less cogent, and the facts which I have stated are as strong as I ever heard established in a court of justice, for the purpose of justifying a jury in finding an act of adultery committed at that period.

My lords; it is so much of the essence of this inquiry, that this principle should be distinctly understood by your lordships, that I do not wish, plain as it is, intelligible as it is, reasonable as it is, that it should rest upon any single authority. I therefore shall read the authority of an individual, as enlightened, as much conversant in questions of this kind, as any person who ever sat upon a human tribunal. My lords, I refer to the judgment of sir William Scott in the case of Loveden *versus* Loveden, in the Consistory Court in 1810. I am not referring to the case for the facts of the case, but I refer to it, for the principle laid down by that learned and enlightened judge, delivered publicly at the time, and of which a learned friend near me at the moment it was delivered, took an accurate note. My lord, it is in these words: "There is no necessity to state the rule of evidence applicable to this subject, except briefly. The fundamental rule is, that it is not necessary to prove a direct fact of adultery. It could not be so proved in one case in a hundred. It must be deduced by inference leading to a just conclusion. If this were not sufficient, there would be no protection for marital rights. It is not necessary to enumerate the various grounds of inference; many are mentioned in the ancient writers. But, besides those, there are many others, depending upon general manners and other incidental circumstances. They must be such as to lead a reasonable and just man to the conclusion of guilt. It must not be a rash conclusion, or founded upon artificial reasoning. It must not be different from what would strike a plain man. This is not a matter of technical rule. Upon such subjects the rational and legal conclusion is the same." Then he goes on and says, "General cohabitation is sufficient: artifices to evade particular observation are held out, to screen parties from just conclusion." My lords, I have not read this because I myself entertained any doubt upon the subject, but because, upon a question of this grave character, I thought it necessary, that the principle upon which your lordships are to be called upon to decide, should be distinctly and clearly pronounced, from what, upon subjects of this nature, I consider as the highest possible authority.

My lords; I have stated to your lordships what passed on the night of the Queen's entry into Naples. Upon the following morning, after she was dressed, she retired into the small cabinet, and remained there for the period of an hour and a half. Nothing further occurred to attract observation upon that day. But, my lords, upon a subsequent night, a circumstance did occur, to which I wish particularly to direct your lordships attention; because it shows, as I apprehend, more particularly as connected with the facts I have already related, that this adulterous intercourse was going on between these parties. Mademoiselle Demont, the servant, was upon the point of quitting the apartment of her mistress, the princess; she was in the corridor for the purpose of going into her own apartment; and the door of the corridor being a little upon her left, two or three or four paces from the door of the Queen's apartment; at the moment she was standing in this position, she sees the courier Bergami at the other end of the passage in his shirt, coming in a direction towards the Queen's apartment. It was impossible she should not know what the object was, because she made the observations I have stated on a previous night, and she hastened to quit the spot, in order that she might not be a personal obstruction to the intercourse which was about to go on. What was the observation she made at the moment? She passed the door, she found it closed, and the key turned. Your lordships will understand I am now establishing one of those facts as they stand before you in evidence. I know what may pass in the minds of noble lords. I know they may say, all this rests on the evidence of one particular individual. At this moment I shall make no observations upon the credit of that witness; but, in the course of what I am about to state to your lordships, I shall take occasion to do so; and I think I shall be able to satisfy your lordships, that no just imputation has been cast upon her testimony. I think I shall be able to satisfy your lordships, looking forward to the future progress of this cause, that there are circumstances which, if they are not introduced on the other side, will give strength and validity and force unanswerable to the testimony of the witness to whom I am now alluding.

My lords, if what I have stated be correct, that an adulterous intercourse had taken place at this time, how would it manifest itself in the conduct of the parties? Intimacy must take place. It is impossible that it should be screened from the observation of those immediately about their persons. Let me, then, recall to your lordships recollection the scenes that took place while these parties continued at Naples. Your lordships recollect a masked ball that was given to Joachim Murat at a house on the sea shore. Your lordships will recollect what was stated of the transactions on that occasion. The princess went to that ball, accompanied only (for the purpose of preparing for the ball) by Demont and by the courier Bergami. There were two apartments allotted for the use of the princess, an anti-room and a dressing-room. The princess was first dressed in the character of a Neapolitan peasant, and she was assisted in dressing by Demont. She went to the ball and remained there an hour. She returned for the purpose of changing her dress. And, what was it that took place on that occasion? She changed her dress, as the witness tells you, entirely. The chamber-maid was left in the anti-room, while the courier was introduced into the bed-room, and remained there during the whole time the princess was employed in changing her dress. After she had changed her dress, she went below: she was accompanied by the courier Bergami, she taking his arm; and afterwards they returned to the room above. My lords, you must have observed the extraordinary course of cross-examination pursued by my learned friend, Mr. Williams. He did not ask the witness a single question as to the facts I have stated; but merely asked her, whether there were not other persons who were in different costumes in the room below? whether there were not other persons of rank and consideration at that masquerade? Why, my lords, did my learned friend not understand the object of the evidence? Did he suppose it was to be imputed, that the princess had gone to a masquerade with the nobility of the court at that time? My learned friend was not so blind in his understanding. The point, and the only point, to which he ought to have interrogated, and which he avoided, because he knew it would be fatal, was, that instead of her chamber-maid to dress her, she chose the courier Bergami, leaving the chamber-maid in the anti-room. My lords, I am told, that no adultery is proved—that if these facts

were admitted in evidence, still they do not lead to the inference. Can any man of common sense, adverting to this single fact, entertain a doubt upon the subject? Would this have taken place, if an adulterous intercourse had not taken place between them? Would she have been locked up for an hour with her courier, to change her dress, the waiting-maid waiting in the anti-chamber? The same observation arises also, but not with so much force, as to what took place afterwards. There was a subsequent change of dress: the princess came back and went down in the character of a Turkish lady; the courier, too, being in the character of a Turk, he changing his dress in the anti-room. In what way did they go? They went arm in arm down the stair-case: they went into the room alone, and what took place? Instantly, almost, the courier returned. What do your lordships presume from all this? Was it intended that that courier should return, or was it discovered by some persons who this individual was; and was he obliged, for shame, to retire from the spot which he had thus polluted? My lords, in what situation did this man stand at that time? In the situation and character of a menial servant, waiting behind the chair of his mistress—a common footman—and you are told, "if these facts are established, there is nothing to lead to the inference that adultery has been committed!"

My lords, I come now to another piece of evidence as to what took place at Naples. Your lordships remember, that it appeared in the course of the case, that in consequence of an accident, this courier became lame, and was confined to his bed, by a kick from a horse. The chamber-maid is asked, whether, in consequence of that, any person slept in the small cabinet? She says she cannot say, but there was a sofa there at that period. Majoochi tells you, he slept there: he tells you, while he was sleeping there on two of the nights, after midnight her royal highness came from the side of the cabinet next her own room, looked at the bed for the purpose of observing whether or not he was asleep, and instantly passed into the room of Bergami, where he afterwards heard the whispering and kissing. My learned friends cross-examine as to this fact; and they think they have obtained a great triumph. What do they collect from it? What was quite palpable without that; namely, that inasmuch as this was an interior communication, there must have been some other communication—undoubtedly, if her majesty had gone out to the public passage which led to the saloon, where young Austin, Hieronimus, and the maid-servants slept, she might have found her way to the exterior door of Bergami's apartment. It is asked, was not it an act of insanity to pass through that room in which Majoochi slept, to the room of Bergami, when she might go in another direction? Why, she ascertained Majoochi was asleep; she knew there was greater danger in going in the other direction; and if I were to be asked, which was the most prudent course for her to pursue, in aiming at this guilty object, I should say, beyond all comparison, that course was the most judicious which she adopted. But all this rests upon the testimony of Majoochi; and we are told that Majoochi is a witness not worthy of belief. He has been cross-examined once, and a second time; and then Carlton-house is introduced, and he is cross-examined a third time. I attended to the first cross-examination as it was my duty to do, and I will take upon myself to declare, since I have read the minutes with the same object, and with the same view, that in that long cross-examination, extending through seven or eight hours, applying to a great variety of complicated transactions and facts, extending over a period of three years, in no single instance was he detected in the slightest inconsistency. But, my learned friends get hold of a phrase—a phrase which, at the very time when it came from the mouth of the witness, every noble lord knew to be of equivocal import—that it might mean this, that, or the other. When asked to a particular fact, his answer, literally translated, was, "I do not recollect to have seen it"—not strictly "I do not remember a thing that existed formerly," and which was calculated to make an impression, but "I do not recollect the circumstance." The changes are rung upon this particular phrase, with an artifice calculated to raise an impression upon low and vulgar minds, but which must have been utterly fruitless and unavailing, when addressed to the august assembly, before which I have now the honour of appearing. My lords, it was impossible, where I stood, not to observe the course pursued by my learned friends: "let us have a few more *non mi ricordos*"—leading to the very answer, for the purpose of imposition; and then your

lordships are to be told, merely on this artifice, intrigue, and management, that this witness is not worthy of credit. But, my lords, a witness was afterwards called up of infinite importance—I mean Paturzo. He gave an evidence calculated to make a deep and lasting impression on your lordships. My learned friends felt that impression—it was necessary in some way at the moment to get rid of it, and by that which, I say, was incorrect in point of statement. Majoochi, upon the close of the evidence of Paturzo, was again placed at your lordships bar. Upon what pretence was the application made to your lordships? It was made upon the pretence of the urgency of the occasion—that the questions must be immediately put; and when he was interrogated, with what view and object was it? Some letters had been written in which he was supposed to have made such and such statements, with respect to such and such transactions; and the questions were put in order to contradict him. Why, my lords, the very statement I am now making to your lordships, shows that there was no necessity, at that moment, for recalling him to your lordships bar—it must satisfy your lordships that there was no hurry on the occasion, and that the object was, to get a few more *non mi recordos* to create a false impression as to the character of that witness. But, then, another fact is stated and insisted on, with respect to the credit of Majoochi. On the former examination he had not stated he had been in England, and now it turns out, the second time, that he came to England with Mr. Hyatt of Gloucestershire as a courier, and remained with him a few weeks, and then went back to Vienna with dispatches from that gentleman. I beg leave to point out to your lordships, in justification of that witness, with what difficulty I was allowed to ask Majoochi, whether he had come from Vienna to London, and afterwards gone to the Hague. I never asked the witness—there was nothing to direct the attention of the witness to the subject—whether he had on a former occasion been in England. And, are you to say he is unworthy of credit, because he did not, being a foreigner, volunteer in saying, I was once before in England as a servant to Mr. Hyatt of Gloucester? These are the arguments, arising out of the conduct of my learned friends, by which it is supposed the evidence of Majoochi is laid prostrate, and that no attention is to be paid to it! But again he is produced upon the stage—for what purpose? for any fair and legitimate purpose? for an hour and a half has he been examined here to-day. I thank my learned friends for it. What was the object of my learned friends? They had heard—for it was rumoured abroad—that when he was in England upon that occasion, he was at Carlton-house; and the mere circumstance of getting him within those walls, is to be a reason why he is again to be cross-examined for an hour and a half; because it is supposed there is something mysterious in that circumstance to break down and impeach his testimony! Why, my lords, the circumstance is so clearly stated, and the manner of giving his evidence was of such a nature, that if any doubt existed on your lordships minds before, this would remove it, and show that the imputations on his evidence were utterly destitute of foundation. My lords, it is Majoochi then, who has sworn to the facts I have stated: he has sworn to facts not confirmed exactly by Demont, because she was not in a situation to confirm them; but to facts of the same character and description, existing at the same period in the intercourse between these parties.

My lords; there is another circumstance. Your lordships will recollect, it was proved, that at Naples there was a terrace adjoining this small cabinet—the courier, who is then employed in waiting at table, is seen walking arm in arm with her royal highness on that terrace. We are told with a sneer "these are little trifling facts, that you are accumulating on us, and pelting at us." My lords, I refer to them, because, in my mind, they are not trifling, but lead to a direct conclusion of guilt. If I see a princess walking on a terrace, arm in arm, with a servant who waits behind her chair, as a reasonable man, knowing a little of the world, I can come only to one conclusion.

My lords; I am reminded of a fact that is very material—the facts are so numerous, it is difficult to remember them all—I beg leave to remind your lordships of what took place at the theatre St. Carlos; and allow me to say, that, when you are talking of a witness on whom no reliance is to be placed, the variety of the circumstances, and the complexity of them, is to be taken into account in estimating the credit due to him. I ask your lordships, is it possible to suppose what is stated to have taken

place at the theatre St. Carlos was an invention? What, my lords, are the circumstances of that transaction? Her royal highness was desirous of going in private to the theatre, and made her arrangements accordingly—the wife of the heir apparent to the throne of Great Britain, at that time holding the supreme power in this country, having an English suite of ladies and gentlemen attending upon her person, is desirous of going in private to the theatre St. Carlos—I do not object to the privacy—she might have selected any respectable person of her suite—she might have selected any respectable person in the city of Naples—she might have commanded proper attendance, without infringing on the privacy. But she chooses another course—she chooses her chambermaid and her footman to accompany her in private and in disguise, to the public theatre of Naples. My lords, in what way and under what circumstances? It is a rainy night—a dark tempestuous night—a hired carriage is drawn up at a private door at the extremity of the garden—they traverse the terrace to the garden gate, where they get into that hired carriage, and go to the theatre, where, in consequence of the reception she met with, they only remain a short time, and are obliged to retreat, and they return home. Does this, my lords, admit of two constructions? Is this possible to be an invention? Can my learned friends suppose, whatever observations they can make upon the language or conduct of Demont the witness, that your lordships will believe this tale is invented? And if not, what is the conclusion to which it must lead, in the mind of every man acquainted with transactions of this nature?

My lords; I beg leave now to call your lordships to the recollection of what took place at Genoa. When her royal highness arrived there, her whole English suite had quitted her, with the single exception of her physician, Dr. Holland. Sir William Gell, the honourable Keppel Craven, captain Hesse, lady Elizabeth Forbes, and lady Charlotte Lindsay—all had quitted her, with the exception of Dr. Holland. Now, let me recall to your lordships recollection, what took place at Genoa. The arrangement of the apartments is most material. The princess's sleeping apartment was separated from that of Bergami by an intervening chamber, which was occupied by no person. It contained luggage, and was used as a dressing-room by the princess: there was a door from her royal highness's room into it, and also from the room of Bergami. It is clear, therefore, there was an interior communication between the two bed-rooms. There is also another circumstance most material—that on the opposite side of the bed-room of the princess was the bed-room of Mademoiselle Demont, and there was a door from the room of her royal highness to Demont's room. The witness Demont has told us, that regularly every night, after she was dismissed from her royal highness and went to her own room, the key of her door was turned; she was locked in, so as to render it impossible for her to have access to the room of her royal highness. She tells you more—she says, that she generally heard some door on the opposite side open, whether the door from the room of the princess to the dressing-room, or the door of Bergami, does not appear. But the maid is locked into her own room by her royal highness; and afterwards something takes place, which leads to the conclusion, that some person had passed from the room of her royal highness to that of Bergami. My lords, upon the following morning, and during the whole time of their residence at Genoa, she whose duty it was during a month of that time, to make the bed of her royal highness, found it had not been slept in—it had been disarranged and the cushions tumbled; but, in fact and in substance, that bed had not been occupied. She tells you, that in consequence of this she seldom made the bed—it was not necessary to make it—she smoothed the sheets and arranged the cushions, and that was all. My lords, here again is direct evidence, sufficient to satisfy any reasonable man, connecting this part of the transaction with the other circumstances. I have stated, that, during the whole of this time, an adulterous intercourse was carried on at Genoa between her royal highness and her courier. If these facts be true, it leads to that direct and necessary conclusion.

My lords; there is another circumstance to which I beg leave to advert, because it is a circumstance of most material importance, in consequence of an incident to which I shall refer that took place at Genoa. There was a small cabinet adjoining the saloon—the princess breakfasted in that cabinet. Did she breakfast alone? No; she breakfasted

with her courier. Upon whose testimony does this fact depend? Upon the testimony of Demont and upon the testimony of Majocchi, both speaking to the same fact. But they introduce an incident of great consequence in this inquiry. When we are examining the credit due to witnesses, let us see how they dispose of facts—whether they place themselves in a situation to be contradicted if it be untrue. If they do it fearlessly, it gives an additional weight to their testimony. Who waited on these persons in the cabinet? Majocchi was one. And who was the other? Louis Bergami, the brother of Bergami—they both waited on the princess and the courier in this small cabinet. My lords, we are told all this is false—that you can place no reliance on the evidence of Demont confirmed by Majocchi. Here they can be contradicted. I challenge my learned friends on the other side to contradict these witnesses on this particular; and I shall have further challenges to repeat when I come to trouble your lordships with the subject of witnesses to be called on the other side. Here is a witness that may be called—let Louis Bergami be called to contradict the evidence they have given.

My lords; there is one very important circumstance, when we are examining the credit due to witnesses, let us see how the evidence comports with the conclusions which we should form from our own observations in life. The first thing that would be done by a person in the situation of Bergami, after he had obtained this influence, according to the natural order of things, must be this—to render it beneficial to himself—to render it beneficial also to his relations and his connections. By introducing his own friends, his own near relations, about the person of the princess, he fortifies his influence—he increases his interest—he excludes strangers—he confirms the dominion he has obtained, in such a way as afterwards to render it difficult to shake it off. What is the account of the witnesses of what took place at Genoa? For four months at Naples this had been going on; and for two months at Genoa; and, at Genoa, who are the parties introduced into the service of her royal highness? The sister and mother of Bergami—the child of Bergami—a child of between two and three years old. All this, it is to be said, is the fair connexion that ought to exist between servant and mistress! Her royal highness is attached to him, beyond calculation, beyond measure, on account of his faithful services, and his faithful services alone! She is willing he should bring his relations and connexions about her! He brings his child, who stands in need of the support of the mother; and if the connexion be fair, would not the mother of the child have accompanied the child itself? But, if the story of the witness be true, the last person in the world to be introduced into this establishment is the mother of the little Victorine; and, accordingly, when she was at the Barona, and intelligence was given that the princess was coming, she was sent away as fast as she could be. But, does not the thing speak for itself? It is not this or that insulated fact on which the case depends, but on a combination of circumstances, all corresponding with what one knows to operate on the minds and conduct of men.

The witness Demont tells you further, my lords, that at Genoa her royal highness went to look at a house in some secluded spot; and, what was its recommendation? that it was far from Genoa, and far from the English. And you will find by the evidence of Sacchi, to which I shall by-and-by have occasion to allude, that, during the whole of that journey through the Tyrol and Germany, the same anxious attention was paid to avoid the English. The first question he was ordered to ask, whenever he arrived at an inn was, "whether there were any English at the inn?" If there were, and they were persons of rank, her royal highness avoided the spot, and sought some other place of rest.

My lords; from Genoa we proceed to Milan. At Genoa, lady Charlotte Campbell joined the suite of her royal highness. She did not accompany her royal highness to Milan, but followed her the next day. She remained with her a short time, and then quitted her; and from that time, no English lady of rank waited on her royal highness. But a lady of honour was procured at Milan. And I beg your lordships attention to this, as being of the same description as the other facts. Who was this lady of honour? The wife of the heir apparent of this empire could obtain no lady for that high situation—no foreigner of high rank or distinction—but the person procured is the sister of Bergami—the countess Oldi. But, my lords, how was she suited for the situation? Her royal highness spoke but

little Italian—the countess Oldi spoke no French. The Italian she spoke was the Italian of the lower orders of the people; but, passing that over, they were at first in such a situation, that little or no conversation or intercourse could take place between them, till they had obtained further information. Then you find, to crown the whole, that the sister of Bergami fills the situation of lady of honour to her royal highness, unqualified for it, from the reasons I have stated, and evidently, therefore, introduced only as a blind or cover, and a screen to the communication between the parties. I repeat the observation again; it is these insulated facts that I appeal to, in confirmation of the general story that the witnesses have told; and a man must wilfully shut his eyes to the truth, if he does not agree with me in the conclusion, that these facts are the strongest possible confirmation of the general story told by the witnesses who have been called.

My lords; there is another fact: at Milan, her royal highness was in the habit of wearing a blue dress in her bed-room. One morning on a sudden Bergami opens his own bed-room window—and how is he attired? Why, in this very dress, which at that time was a dress belonging to her royal highness. If the fact be true, it is quite clear, that he must have come out at that moment of the apartment of her royal highness, and not supposing he should be observed, had put on this dress carelessly; and throwing up the window led to his being seen. But, my lords, while at Milan her royal highness takes a tour to Venice. Mr. William Burrell joins her suite; but whether as a visitor or not does not appear, nor is it very material; and he and Dr. Holland accompany her to Venice. What took place there? Her royal highness and Bergami lodged in the Hotel d'Angleterre for a day or two. Dr. Holland and Mr. Burrell were left at the inn, while her royal highness goes to a private house in the neighbourhood: and now I introduce a fact which, unless it is contradicted, is as decisive as can be in this case—I mean what took place after dinner in this house. According to the usual practice, after dinner a jeweller comes in, and trinkets are produced, and a gold chain is purchased by the princess. The party quit the room; and her royal highness remains behind with the courier, who had waited behind her chair at dinner. What took place between her royal highness and Bergami? She takes from her neck the gold chain she has purchased—she puts it on the neck of the courier—the courier takes it off, and puts it on her neck; and then he takes her by the hand, presses her hand, and leads her into an adjoining room. Is this fact true or false? Need I trouble your lordships by deducing the inference, if the fact be true? The courier, waiting behind the chair of the princess, to be toying in the manner I have mentioned after dinner—it leads only to one conclusion. But who is the witness? Is he one of the princess's household? No. He is a third witness totally unconnected with her, confirming these facts. Who is he? Why, for fourteen years last past, he has lived in the situation he holds. His character is open to inquiry—the fact may be contradicted if untrue; but, if no impeachment is made of the character of this witness—if the fact itself be not contradicted—it appears to me, there is an end of the defence on the other side; because it is quite impossible to reconcile this isolated circumstance, with the innocence of her royal highness, and her freedom from the imputations cast upon her in the preamble of this bill.

My lords; while at Milan, a visit is made to Bellenzona. At Bellenzona Bergami, still a courier, still having the dress of a courier, sits down at the same table with her royal highness, by the invitation of her royal highness; I make no observation on that, I merely state the fact; they visit general Pino—What takes place there? This depends on the evidence of Demont; Demont says, that she slept in the room adjoining the room of the princess; that after she was in bed, Bergami came into her room, passed through it, and went into the room of the princess. My learned friends do not cross-examine as to this fact. They do not ask a question upon the subject, but your lordships think it requires investigation; your lordships proposed questions to the witness. "How long did he remain in the room?—I cannot tell.—Did you go to sleep? I went to sleep in a quarter or half an hour. Did he come out of the room before you went to sleep?—No he did not. What became of him afterwards? I cannot tell." My lords, I state this fact—it will be idle to make observations on the facts as they occur—but I state this fact, as confirming and as being in character with the rest of the story.

But, my lords, her royal highness proceeds from Milan to the Villa Villani, where all that it is necessary to state is, that there was the same arrangement of the apartments, and according to the witness, the bed of Bergami was not slept in. I come now to the Villa d'Este. I am afraid of tiring your lordships, but I trust that an hour or two your lordships will not consider thrown away in the discharge of this part of my duty; and I will not make a single observation that does not impress my mind as proper and necessary to be made. At the Villa d'Este, first of all, let me direct your lordships attention to the situation of the apartments—precisely the same arrangements are here made. There are two anti-rooms; you pass from one anti-room through the second to the bed-room of her royal highness, from which there is a passage to the room of Bergami. In this situation are the parties continually left. The waiting-maid accompanies her to her bed-room to undress her. Her royal highness returns through the two anti-rooms—Demont is turned out—the door is shut and locked — Bergami is inside his apartment, communicating directly with the room of the princess which is thus secured.

My lords; let me remind your lordships of the change that afterwards took place. After the return from the Grecian voyage, her royal highness changes the position of her bed-room, and there is no interior communication between her bed-room and that of Pergami; it becomes necessary to make a communication, and a door is expressly opened for that purpose—there is a corridor communicating with the bed-room of the princess, the door of which cuts off all communication. During the whole time, therefore, that they were at d'Este, there were these facilities of communication, not merely existing, but studiously and carefully preserved between their respective bed-rooms. —My lords; we must take, in cases of this kind, the circumstances altogether: you find how the parties conduct themselves towards each other; you find the degree of familiarity existing between them, that they conduct themselves in all respects as lovers, or like man and wife; and you find steps taken to prevent any disturbance to their intercourse during the night. What is the conclusion you come to? You come to the conclusion, that the care that is exercised to facilitate this communication is taken to facilitate an adulterous intercourse between them.

Now, my lords, it becomes necessary to direct your lordships attention to the general circumstances that took place at the Villa d'Este—the degree of familiarity existing between the parties, spoken to, not by one, two, or three witnesses, but by the concurrent testimony of such a body of witnesses as to render it perfectly impossible to discredit the truth of their testimony. They are seen always together, walking arm in arm in the garden, going in a canoe on the lake; they are seen, at different times, kissing each other privately in the garden. You will remember the testimony of one witness in particular, not a member of the household, but a person who was attending in the exercise of his trade, who, upon one occasion, saw them sitting upon a bench together at the end of a walk in the garden: Bergami got up; she pulled him down by the flap of his coat, and throwing her arms round his neck, embraced him. I mention this only as one of the many instances spoken to by the witnesses, of the familiarities between these parties at the Villa d'Este. Why, my lords, in ordinary cases, if you see between a married woman and a man in equal situation of life, these kind of familiarities; and if you see anxious preparations made to enable him to have an opportunity of access to her bed-room, where he is shut up, night after night in that situation, I say, that no jury, that no Court, could by possibility refuse to come to the inference of guilt. But, my lords, I do not rest my case only upon these general circumstances of intimacy, regard, affection, and attachment, that existed at the Villa d'Este; but I call your lordships attention to some particulars of a nature so striking and so strong as to admit only of one construction and one conclusion. My learned friends may say, that no attention is to be paid to this evidence—that these witnesses are not worthy of credit—they may contradict the witnesses, or impeach their credit; but if the facts remain uncontradicted, and the witnesses unimpeached, then look at the conclusion you must draw from these facts which I am about to state—not as the only facts, but facts selected from the whole; because, to go through the whole, would fatigue your lordships, and not strengthen the argument. I therefore select one or two facts which, if true, no doubt can remain as to the infer-

ence they afford. Your lordships will remember a witness of the name of Raggazoni; he was working in a grotto of the garden at the Villa d'Este: he heard some persons in an adjoining room, which was separated from the grotto by a small passage. He heard them talking and laughing; it excited his attention, and he went round the scaffold for the purpose of ascertaining what they were doing, and saw they were occupied [illegible], in that place there were two figures, the one of Adam and the other of Eve; each of which had a fig-leaf worn in a particular manner, that has been described. What were the princess and Bergami doing? They were removing the fig-leaf: they laughed, and talked, and joked with each other. Is this story true? If it be true, the conclusion is obvious. My lords, I remember in the case to which I have referred, where I read the judgment of sir William Scott, that a letter was produced, written by the lady to the person with whom the adulterous intercourse was supposed to have been carried on, entering into some circumstances of an indelicate nature; and I remember also that the judge laid hold of that fact as decisive of the case; he said, that no woman would have so written to a man, unless an adulterous intercourse had taken place between them. My lords, I apply that principle and that rule to the case before us. I say, it is quite impossible, if the fact now stated be true, that these parties should have so conducted themselves upon this particular occasion, and with reference to this circumstance, if an adulterous intercourse had not taken place between them.

My lords; another circumstance which took place at the Villa d'Este also, which was told by the witness Galdini; and I recall to your lordships recollection the natural way in which it was told. Because, when we examine evidence, we examine, not merely the probability of the story, but the manner in which it is told. Your lordships remember, in consequence of some circumstances of delay in some orders he was to receive, he went up the stair-case to a landing, where there were several doors: your lordships find, on opening the door of a particular room, in what way he found Bergami and the princess. He found them sitting on a sofa; her neck was uncovered; his arm was about her neck, or round her person. That leads to the same inference. Another witness says, a door was accidently opened, and the opposite door was open, and he looks through and sees them embracing each other. I ask you again, my lords, to advert to the fact established by another witness. My lords, I beg your lordships again to recollect what took place on the lake; there is a retired spot of the river Brescia, communicating with the lake, where the inhabitants were in the habit of bathing—there is a canoe—her royal highness and Bergami are dressed in trowsers, and are observed in the water. The instant they are observed, they make their escape. I mention these facts, and refer to these witnesses, as confirming Demont and Majoochi by a body of testimony; which I am entitled to say at present, is so strong and irresistible, that I am in fact beating the air when I am anticipating the observations to be made on it by the other side. If it leads but to this conclusion—and I am not now to say whether it will be impeached or not; I am not in a state to say whether it will be contradicted and beat down—but, if it is not, it forms a body of evidence as strong in confirmation of the evidence of Majoochi and Demont, as I ever before witnessed or experienced in a case of this kind in any investigation in a court of justice.

My lords; I will not trouble your lordships further as to what took place at the Villa d'Este. I have embraced all the leading and striking circumstances that occurred there, and I now hasten to circumstances not more conclusive or striking, but of a more peculiar and marked character, and which have been sifted so much by your lordships in the course of this inquiry. But first, my lords, I must beg leave to direct your lordships attention to what took place in Sicily. The princess embarked on board the Leviathan at Genoa to go to Palermo: a certain arrangement of the apartments is made by the officer of the ship; he places the cabins for the females around her royal highness; the cabins for the men are at a distance. Her royal highness comes on board, and inquires into the arrangement and disapproves of it: she removes the females to a distance, and places Bergami's cabin near her own. I allude to this circumstance, to show that it is not a fable and invention that the witnesses have been stating, as to the care taken to have her apartment contiguous to that of Bergami; because you find that even on board a British ship the same care is exercised by

her royal highness, perhaps not with a certainty that it might lead to the commission of adultery, but affording at least a chance of it—there was no light in the cabin during the night—it would afford an opportunity of an adulterous intercourse; but the evidence does not show that it took place on board the vessel; but, I say, it is in confirmation, as I before stated, of the general principle on which these parties acted; and, I add, it was done with a view to afford an opportunity of an adulterous intercourse, if it could by any possibility be carried on.

My lords; the party proceed to Palermo and to Messina. At Messina I beg leave to advert again to what took place with regard to the apartments—the princess's first, the countess Oldi's next, Bergami's next, Demont's next; Demont is locked in every night; the key of her door is turned, and there is the princess, the countess Oldi and Bergami, in adjoining apartments. Demont is called out of her room in the morning—by whom? repeatedly by the princess herself—in what state? in the state in which she got out of bed, with the addition of a cloak or mantle thrown over her—she passes through the room of Bergami for that purpose. Where is Bergami? he is in the room. So that the habits of these parties were such—the intercourse had been carried on so long—that without scruple or reserve, her royal highness appears in the bed-room of Bergami in the dress in which she leaves her bed, with the addition of a mantle. Is that reconcilable with any thing but what I have stated? That is not all—we find that, upon one occasion, Bergami asked leave to go to Messina. In the kindest terms it is given him. Her royal highness calls him "*mon cœur*," "*mon ami*," and at parting they embrace each other—the parties being in such a situation as to carry on this connection, they are found embracing and kissing. Here they embarked on board the Clorinde. On board the Clorinde there is some hesitation arising about the table. Captain Pechell says, "I am desirous in every possible way of accommodating her royal highness; but there is one circumstance of obstruction, I must insist that the sacrifice shall be made by her royal highness, without which it is impossible that I can provide her a table. I, as a British officer, cannot sit down at the same table with a man who has waited behind my chair. I should be dishonouring the situation which I hold, I should be dishonouring the rank which I fill, if I were to accede to this." Accordingly, a message is delivered to her royal highness, in which she is requested to make this sacrifice. She treats it lightly, and says, "I did it to accommodate captain Pechell; I did not like to give him the trouble of two tables." Is that true? Was that the motive? Can that statement be true? Her royal highness had been in the habit before, for a considerable period, of dining with this man. It was not, therefore, for that purpose; but it was that it had become her habit to dine with this man every day, and she still clung to it. But, further; if it was to be a sacrifice, in the manner mentioned, to accommodate captain Pechell, captain Pechell did not wish to be so accommodated. "He says, I am ready to provide for Bergami elsewhere," the moment she says it is to accommodate captain Pechell. One would suppose that there difficulty would cease. But, no—her royal highness takes a day or two to consider; she clings to her resolution; and Bergami dines with her every day during that voyage. My lords, why do I state this? To show that the course of her royal highness was not plain and simple and direct—to show that there was some mystery in this—to show that she did not avow the truth—to show how much importance she attached to having this person near her, and that she could not, for the sake of appearances, consent to make this sacrifice.

My lords; we then proceed to Catania; and I beg to call your lordships recollection to what passed at Catania, because it is most important. There, there was a particular arrangement of the apartments, which, in consequence of the indisposition of Bergami, was afterwards altered. Her royal highness slept in the room adjoining the room of mademoiselle Demont and Mariette Bron her sister; on the other side slept the countess of Oldi; Bergami being ill, he was put into the room occupied by the countess of Oldi, and the countess of Oldi was placed in the apartments of her royal highness with the little Victorine. Your lordships will see, therefore, that during this period Demont, and her sister slept between the rooms occupied by the princess and Bergami. They were in the habit of leaving their room at nine in the morning to go to breakfast; before that time they had made no observations; the doors had been closed, neither

Bergami nor her royal highness had appeared after breakfast—on returning, the doors were sometimes open, sometimes closed—generally her royal highness was up; but one morning, remaining there beyond the usual time, according to the best of her recollection, I believe her sister being present, about the hour of ten her royal highness, with the pillows on which she was accustomed to sleep, came out of the room of Bergami: she saw Demont, and passes into her own room, contrary to her usual custom saying nothing. My lords, as to this fact, according to the course that has been pursued in the cross-examination on the other side during the whole progress of this inquiry, no questions I believe were put; but your lordships, in the discharge of the important duty which is cast upon you, thought it necessary that some questions should be put, for the purpose of seeing how directly these facts lead to the conclusion that a large part of the night had been passed by the princess in the bed-room of Bergami; for your lordships asked, "whether Demont had quitted her room that morning? She said, no?—How long had you been awake? Two hours.—During that time had her royal highness passed through your room No." The answer to all this shows, that, for two hours at least, with the pillows on which her royal highness usually reposed, she was in the bed-room of the courier.

Now, my lords, when I have stated this fact, I am aware again, that it will be said that this depends upon the evidence of Demont; and therefore it becomes necessary, as much of the evidence to which I have referred depends upon her credit, fortified and supported throughout as it is by the other facts, to say a word or two on what has been thrown out on the other side to impeach her testimony. My lords, certain letters have been referred to, and certain expressions in one of those letters of high feeling for the exalted qualities, the charity, the benevolence, the sensibility and other virtues, which are supposed to be possessed, in so eminent a degree by her royal highness. My lords, I have no interest to detract from those praises. I have no doubt, knowing the illustrious race from which she has sprung, and knowing these are princely virtues, that she possesses them in the high degree stated; but it is going too far to suppose, that generosity, however exalted, that charity, however extensive, that sensibility, however amiable, are inconsistent with a woman's being the victim of a degraded and debasing attachment. Does not the history of the world show, that those qualities are consistent with the case which is making out against her royal highness? Is there any man that knows what passes in the mind, the heart, and bosom of man, that can rely on an argument of this description? But it is not necessary to dwell on this; because there is another point which must carry conviction to the mind of every individual who hears me. I mean the scene at Pesaro, when Demont quitted her royal highness's service. I ask your lordships to recollect the miserable intrigue which was there carried on, and whether your lordships do not understand, from these letters, in what spirit and with what view they were written. My lords, you will recollect, that the servant was writing a letter, and that some suspicions were raised by Bergami as to the contents and object of that letter—he came into the room while she was writing—he altered the arrangement for sending it from Pesaro—and he imposed on her, a relation, a tool, I say of his own. She took the letter to the post office, put it in with her own hand; and on the following day, to the disgrace of all parties concerned in that transaction, that letter was found in the hands of the princess! My lords, that is not the only instance of intercepted letters—that is not the only instance of a breach of private confidence; because, your lordships will recollect, there was another letter that was taken from the post-office—terms in the letter were altered—the letter was again put in the post-office, and, in this altered form, it afterwards reached its destination. Nay, my lords, this is not all—because the correspondence between the maid Le Bron, who still remained in her royal highness's service, was carried on partly in the handwriting of the princess herself!

Why, my lords, do I advert to these circumstances? Not for the purpose of making any observations on the conduct of her royal highness foreign from the cause, because I trust I am incapable of doing it—but I make them for a valid and legitimate reason. It appears that this young woman was attached, and warmly attached, to her sister—it appears that this sister was totally dependent upon her situation with her royal highness for her support and rank in life; and therefore, knowing that letters were intercepted—knowing how the correspondence was

carried on—it is quite certain, when she wrote any letters to her sister, she must have known and felt that those letters would of necessity find their way into the hands of her royal highness. My lords, it becomes therefore material and important to consider this fact, when we are construing the letters in question; it becomes material to consider this fact, because it gives a clue to the terms of extravagant praises used in the letter. It was of importance to her sister's interest, not merely that she should not detract from the merits of her royal highness, but that she should conciliate the friendship and regard of that exalted personage. My lords, there is another observation also very material. Something is said about her coming to London—that she had an intention of coming to London in the situation of a governess. My lords, the moment that fact was known at Pesaro, what would be the consequence?—all the indignation of the princess would be drawn down upon the sister; she would be considered as coming to this country to betray what had been passing; and in consequence she alludes to some supposed application which had been made to her to go to London, for the purpose of giving evidence, and which application she had resisted. Why was that done? It was done for the purpose of satisfying the mind of her royal highness, that although she did come to London as a governess, her royal highness had no reason to apprehend she would betray the secrets with which she had become acquainted.—My lords, again, with respect to the letter from Rimini. And here, my lords, give me leave to observe upon the course pursued by my learned friends—three letters are produced—three letters are proved by Demont to have been sent—she proves that they are in her hand-writing. But, my learned friends carefully select for their own purposes only two of them, and withhold the other. Your lordships had decided, that questions could not be put as to the contents of letters; because, if they could, garbled extracts might be given in evidence. My learned friends being, therefore, prevented in this, give only two letters in evidence. What is the other? The other is a letter from Rimini. What led to that? What I have already stated—a conversation had taken place between Bergami and Demont—"for God's sake take care—it will be the ruin of the girl!—write a letter to the Queen ask her pardon—conciliate her—I have done so—I wrote from Pesaro, and from Rimini—I wrote a second letter, which has been given in evidence."—When your lordships take the letter, take the explanation also, and see if that is not satisfactory as to the import of the second letter. So much with respect to these letters of Demont. Is there any thing else that has been offered to impeach her testimony? Nothing whatever; I do not call to mind a single fact. My learned friends cross-examined very sparingly, as to the facts of the case; and when your lordships are asked to reject her evidence, on account of these letters, an inference is drawn, and a statement is made, which the circumstances do not at all warrant. I ask of your lordships to look at the long letter, out of which the principal doubt arises, and to say, whether it is not obvious, from its language and phrases, that it was written under the impression that her royal highness would see it? It is, I conceive, impossible for men of common understanding—for men of common sense—to examine that letter, and not to see that it was written for this particular purpose. Passing over the general feeling, the style, language, and complimentary diction which appeared in the first letter, I will refer, in proof of what I have said, to certain passages in the letter itself. Demont directs her sister to communicate so and so to her royal highness. Is it not clear, then, if those communications were made, that her royal highness would naturally wish to see those letters? The only argument that I have heard, of any consequence, on the other side, is, that from certain names being mentioned, there appeared to be something confidential in those letters, and that they could not, therefore, possibly have been meant for exposure. This arose on the cross-examination, and may be traced to the delicacy of the witness. It was observed by the learned counsel, "a person's name is mentioned in this letter, and of course it is confidential, because you wish that name to be suppressed." But what is the answer which reason gave, and which must flash on the mind of every man? It was not with respect to his being known at Pesaro that this suppression was called for. It would be of no consequence to her, or to the individual mentioned, if the circumstances had been known there. But the proceedings of your lordships are sent

through Europe, by means of the public Journals, and the witness feared that the disclosure of a name might lead to scenes which it was better to prevent by withholding it from the public. This was the only point my learned friends had by which it was hoped to impeach the credit of the witness; but, as I have already stated, the evidence of Demont is supported, in its general details, by the great mass of evidence. If what the counsel on the other side say be correct—if there is no ground for casting an imputation on the character of her royal highness—if there is nothing mysterious in the conduct of this courier—if Bergami was advanced in the service, solely on account of his merits, and the respect he bore to an honourable mistress; if such was his situation, and the character of his connexion, what is the inevitable conclusion to which it leads? Could there be a more desirable witness than that man himself, to contradict the testimony of Demont? She spoke of his conduct when the three parties only where present: not on one occasion, but many. If the connexion of Bergami with her royal highness has been such as is alleged in the bill, he certainly could not appear at your lordships bar; but, if it was a pure connexion, unsullied by those circumstances which I have stated, why was he not opposed to this witness? Why was he not brought forward to contradict Demont—to show that a base attack was made on the character and honour of the most amiable and virtuous princess in the world—to prove that Demont had been falsely accusing her royal highness with crimes that were never committed?

Having made these observations on the statement of my learned friend, relative to the testimony of this witness, I call on your lordships to consider the whole of the evidence, to take all the story together, and to see whether she was ultimately contradicted in any point that can destroy the inference to which her testimony must evidently lead. I ask of their lordships to mark the evidence on both sides, and to mark how the case now stands. At Milan this man had been employed as a courier in general Pino's service. He afterwards was admitted to the same rank in her royal highness's household. But in the course of a few months he becomes her royal highness's equerry, then her chamberlain, then, by her influence, knight of Malta, then baron de la Franchina, then knight of the Holy Sepulchre at Jerusalem, and then grand master of the order which her royal highness herself created. Your lordships will also find him possessed of a considerable property even at the very gates of Milan. The man who had been a few years before living in a prison (for what reason I know not), who had received three livres a day from general Pino—this man you find suddenly covered with titles and honours. What is the cause of all this? What entitled him to all these favours? My lords, I do not mention this as conclusive, but only as it serves to confirm other facts which have been disclosed before your lordships bar. It is impossible to explain her royal highness's extravagant attachment to this man in any other way than by supposing their intercourse to have been as we have described it, and as your lordship must believe it to have been. Another circumstance happened at Catania, to which I must beg to call your lordships attention. You will be pleased then to recollect that a picture of her royal highness was painted as a penitent Magdalen. Every body knows what it is, and to ask for a description of it would be idle. It has the upper part of the person considerably exposed. It has been proved to you that this picture was found in the possession of Bergami, and need I ask you for whom you think it was painted? You will, no doubt, say for Bergami; and you will be the more satisfied it was so, when you also recollect that, a portrait of him was seen in her royal highness's possession. He is painted as a Turk, she arranges the turban, she adjusts the upper part of the dress, and says, *je l'aime mieux comme ça*. Now why all this? But I shall merely state facts, and leave all commentary to your lordships judgment. On board the Clorinde, captain Pechell never went into her majesty's apartments, but Demont sees Bergami in his great coat lying in one bed, and her royal highness in another, near him. But I pass on, and mention facts. A vessel, termed a polacre, was hired for the purpose of making the long voyage. At Messina it appears the arrangement of the cabins was made, assigning to every branch of the intended passengers their respective situations, and every thing was prepared for the voyage. At Augusta her royal highness came on board, and immediately set about altering the ar-

rangement which had been made. It should be recollected, that on each side this vessel there was a passage, on each side of which were the cabins; at the end of this passage was the saloon, which traversed the whole breadth of the vessel; and beyond the saloon were the apartments of the princess and the countess Oldi. Two doors opened into the dining-room, one leading to the apartments of the servants, and the other communicating with her royal highness's own rooms. The change here made by her royal highness in the disposition of the rooms was consistent with her former and constant practice. Orders were given to have the door contiguous to the rooms of the women, shut up, leaving, by means of the only remaining door, a free communication with that part of the ship where Bergami slept, contiguous to the dining-room. On this voyage till they arrived at Tunis, passing by Utica and Savona, the same arrangement of the bed-rooms continued. Shortly after they left Tunis, Bergami's bed was transferred to the dining-room. It is obvious that, according to this arrangement, so long as these doors were kept closed, no person could interrupt the connexion between the princess and Bergami. This disposition continued till they arrived at Jaffa, when a tent was raised upon the deck, and two beds were placed under it, one for the princess and the other for Bergami. This arrangement continued for six weeks. I beg to call your lordships recollection to the familiarities which a host of witnesses have proved to have taken place during the residence of her royal highness at the Villa d'Este; and I will then beg you to look at the evidence of the familiarities proved to have taken place on board this vessel. I call on you to look at the testimony of the mate of the vessel, Paturzo, the captain Gargiulo, and the cook. They were there seen sitting on the same gun mutually supporting each other—they were seen kissing; and Paturzo, the captain, deposed that he had seen Bergami kissing on a sofa with her royal highness leaning over him in a position so indecent that he thought it was not fit for his crew to remain within sight, and actually ordered them to withdraw to a distance. It was in this part of the evidence, too, that they were shown to have slept under the same tent, chosen by themselves, for a period of six weeks. If these facts, my lords, have been proved, there can be no doubt, as to the conclusion your lordships must come to. And what has been the course taken to invalidate them? Why, my learned friend put a question as to some communication existing between the tent and the dining-room below, thereby aiming to establish the hypothesis, that although they were locked up in the tent every night, Bergami might have availed himself of this private retreat to go below and pass the night. But, before you allow yourselves to be led away for a single moment, by any such hypothesis, I entreat your lordships to look at the circumstances proved as to this particular fact. The parties were seen to go into the tent, which was then shut up, and Bergami was known to remain at least for ten minutes every night, he himself handing out the candle, to be taken away. As far as concerns his sleeping below, the witness Demont said, that if he had gone down, he must have passed by the foot of her bed, and she never saw him on any occasion. Birollo stated, that he saw Bergami coming out of the tent, several times, in the morning, for purposes which it is not necessary for me to describe; and he was found in his bed in the tent on its being opened every morning. After this, then, are your lordships to be seriously called on to believe that Bergami did avail himself of that private retreat from the tent, when the deck and all the other passages were open, and that he came every morning from his place of rest below, just in order that he might be found stretched on the bed in the tent when it was opened? It is not only contrary to all natural inference, but contrary to the direct and positive testimony of five persons of unimpeached credit, all of whom spoke to these facts.

Without proceeding one step further, have I not, my lords, shown enough to satisfy any man's mind as to what passed between the princess and Bergami at this most important period? Who is there that, admitting the fact of the parties having been seen kissing and embracing each other, and indulging in every species of familiarity daily, will stand up and say that he can by possibility come to any other conclusion than that adultery has been committed? Have the counsel for the defence, in their cross-examination, put any questions to the witnesses, as to these facts? Not one. They content themselves with asking the captain of the po-

lacre, how much have you for coming here? What is his answer? He says, I was dragged here, I was forced by the minister to come; and, without hesitation, he states that which he is to receive as an equivalent. Mark the candour of the witness; he says plainly, that during the time he is here, he may have lost money; but that, if his speculations had succeeded, he should have gained much more than he will now get. Commercial persons well know the difficulty and expense of bringing forward witnesses in this country. Indeed every one at all familiar with courts of justice, must be aware of the extent of the remuneration allowed to persons in the situation of the captain of the polacre: and be satisfied that the sum he received was not more than he ought to have been paid. Then see the cautious guarded manner in which he gave the whole of his evidence, and ask yourselves, my lords, if you can possibly think he came here for the purpose of prevaricating, or swearing to acts he never saw. The same observations apply to Paturzo. He confirmed the evidence of the captain. I now, my lords, leave this case as to the polacre, entirely to your lordships' judgment. Your knowledge of men and manners will enable you to draw such inferences as the evidence given will warrant; and evidence, give me leave to say, which if not disproved, can only lead to one conclusion—that of supporting the preamble of this bill. Your lordships will not fail to remark, that her royal highness on this occasion ordered a bath to be got ready below, and Majoochi prepares it in the bed-room of her royal highness. The princess and Bergami go into that room, where they are shut up for half an hour or an hour, and he subsequently calls Demont to dress her, Majoochi all the while remaining in the anti-room. This is confirmed by Demont, who says, she found her royal highness in her night-gown. I admit she does not recollect, whether the bath was in the bed-room or the dining-room; but Majoochi, who prepared it, has sworn it was in the bed-room; and can you suppose, under these circumstances, that Demont came over here to give false testimony?

What, my lords, was the conduct of her royal highness at Aum? What from Jaffa to Jerusalem? At Aum a tent was erected; and two beds prepared, one for her royal highness and the other for Bergami; their hours of repose were the same, they were inclosed within it together, no one else being present. This fact, indeed, is not disputed, but a different colouring is attempted to be given to it. It is asked, was she undressed? No; she was in her petticoat. Was he undressed? No; he had on his great coat and his drawers. Yes, and there were two persons in an outside room; but what of all that, what inference is to be drawn from this circumstance, preceded by so many others of the same sort? The fact is, they try to reconcile their case with ours; and all they have got out about the parties not being undressed can in no degree answer the inference which can alone be drawn from the situation in which they are sworn to have been. I admit there is no direct evidence of adultery then taking place; and that is, because they lived so long in this species of intercourse, that it was not particularised on that occasion. It will be unnecessary for me to advert to what passed at Jerusalem. But I fear, my lords, in going through this evidence, that I shall be obliged to take up much of your lordships' valuable time; yet, in order to avoid that as much as possible, I shall now dismiss the polacre, and remind your lordships of what occurred at Terracina. Bergami disembarked there, and after two days absence returned to the vessel. Her royal highness meets him on his arrival, and they resume their intercourse under all the circumstances of man and wife.—Then, my lords, taking all the facts we have offered in evidence, see how continued the story is, how well all its parts hang together. After the return to Italy they took up their residence at the Barona; there one would imagine a person of the exalted station of her royal highness would have selected suitable companions; one would imagine in a city remarkable for its hospitality, that her royal highness would have been surrounded by all the dignified and the great in that capital. But how will your lordships be surprised to find such a distinguished person proposed at the Cassino at Milan, and her admission to it negatived by a black-ball! Does her royal highness live there in seclusion, living that philosophical life, enjoying that dignified retirement, becoming her rank and station? For these purposes she might have avoided society. But what is the society and what the amusements within the house of her royal highness? To that house were admitted persons low in origin, low in character, low in rank, low in

morals, depraved in mind, and of the most debased, debauched, and profligate description. This is the society her royal highness lived in. But this is not the charge against her; and I only use it as an argument to show it to be the natural result of that degrading connexion into which her royal highness fell as the consequence of her guilty attachment. Her royal highness united around her those people; and here the Barona reminds me of a circumstance which it gives me pain to allude to—so much so, that I shall only mention the name of Mahomet. I know the sneers and the contempt with which this part of the case was received by the other side; but soon after its overpowering effect stunned my learned friends, and they forbore any further questions respecting it. Is this not, my lords, of the same character with all the other facts we have proved, but pushed to a much further excess than the other scenes at the Barona? Her royal highness might probably have seen this once; but if she had the feelings of a virtuous woman, would she have tolerated the repetition of such an exhibition; would she have laughed and been amused at it, rather than turn off the criminal individual with ignominy from her presence? My lords, the whole of these circumstances can only lead to one conclusion. While at the Barona her royal highness took a tour to Germany. And at the first inn she stopped the same alterations were made in the bed-room as on all the former occasions. This fact is not disputed, but a different colour is attempted to be put upon it. True; this, in a great measure, rests upon the evidence of Demont, which is still open to contradiction. But let us pass on to Carlsruhe. At Carlsruhe, their apartments are also contiguous to each other, and the servant Barbara Kress, on one occasion, saw Bergami in bed, his arm white, the princess on the side of his bed, and his arm twined round her neck; on entering the door, the Queen starts, and the chambermaid retires. The witness also, in making the bed, finds in it a cloak belonging to the princess. This story the servant tells at the time; in consequence of which the fact comes to be known. She is now brought here with difficulty, and, as your lordships have all seen, has so comported herself as to show every word she swore was true. From the circumstances in evidence, the inference of an adulterous intercourse at Carlsruhe is direct, unless the contrary can be proved on the other side. From Carlsruhe, her royal highness proceeded by a circuitous route, by the way of Vienna, to Trieste. Well, what takes place at Trieste? A witness—Cuchi, I believe—who had been for nine years at the head of an establishment there, in his situation of head waiter, observed particulars, which I will now call to the recollection of your lordships. His testimony may be impeached; he may be contradicted if what he has stated is not correct. This witness deposed, that at successive times he had observed Bergami coming out of his room in his morning-gown, with drawers and his slippers on, and going into the countess Oldi's room, which led to the princess's room. There were two beds in the room of her royal highness, and two persons were proved not to have been in the room; yet the two beds had been lain in. All these facts prove an adulterous intercourse at that period, and by circumstances, too, which mutually confirm each other.

I now beg to draw your lordships' attention to the evidence of the two witnesses who have been recently examined, I mean Rastelli and Sacchi; and I shall first allude to Rastelli's testimony, because, in a particular circumstance, he was corroborated by Sacchi, namely, that the princess on one occasion went out to meet Bergami, and not meeting him on the first occasion, she again went out, and that when they met, they embraced and kissed each other, and the princess got out of her carriage, and returned in that of Bergami's. There is another fact to which Rastelli deposed, namely, the observation which he had made as to the position of the hand of her royal highness with respect to Bergami; and to this fact, to which it is only necessary to allude, he has sworn in the most positive and distinct manner. My learned friend, Mr. Denman, thought it advisable to cross-examine this witness with that degree of accuracy and address for which he is so remarkable; but the result of that cross-examination was most unfavourable to his cause, since it demonstrated beyond a doubt, that the witness detailed what he saw with his own eyes without colour or exaggeration. An attempt was made to entangle him in inconsistency, and to show that his character was suspicious. He was asked if he had not stolen corn, and been dismissed from the situation of her royal highness; if he had not been one

of the most active agents of the Milan Commission and lost his credit? He positively contradicts the former imputation; and with respect to the latter serious charge, he tells your lordships, that he was merely employed in the situation of courier, which he discharged faithfully, and to the discharge of which, he apprehended, no disgrace could be attached. We come then, to the evidence of another person, the last witness examined, Giuseppe Sacchi, who had been for a year in the service of her royal highness; who had been raised from a common soldier to the rank of lieutenant in the Italian army; who left the service of her royal highness, and received not merely an ordinary recommendation, but one of the highest characters that could be given or received. He stated those facts which I have already alluded to, which had occurred at the Barona; he stated also that he went into Germany with her royal highness, and among all he stated, there were three or four facts so decisive in their nature that I will confine my observations to them. At Ruffinelli, Bergami was ill; he had occasion to visit him, and he saw by the door, which was partly open, Bergami in his bed; that her royal highness also was there in the room by the side of a bed on the sofa. I mention this, my lords, as illustrative of that kind of intercourse which never occurs except between man and wife, or those who stand in the same relation; and if you believe these facts, the conclusion, that an adulterous intercourse took place between the parties, is inevitable. This witness was also at the Villa Brande. There he saw Bergami at two o'clock in the morning, go out of his own bed-room into the bed-room of her royal highness, from which he did not return until after the expiration of an hour. On another occasion, he saw the same thing take place. This witness, against whose character no impeachment can rest, stands, if possible, higher after the cross-examination; he has sworn to facts, which, in any ordinary case, would be sufficient to establish the charge; he also swore to the fact, which took place in the carriage, but which I will not offend your lordships' ears by describing. . . . . . .

I have thus endeavoured, my lords, in discharging the duty imposed upon me by your lordships, to offer to your lordships such observations upon the circumstances in evidence before you, as those circumstances appeared to me to warrant—a duty, my lords, by no means agreeable, in the present stage of the cause; because I know not what may be urged on the other side, and may therefore have been contending with shadows. I have made such remarks on the evidence and on the characters of the witnesses, as the case appeared to me to require, and the present circumstances justified me in doing. I beg now to be allowed to revert to what was stated yesterday, namely, that the proof of the case had fallen infinitely short of the Opening of my learned friend, the attorney-general. I appeal to your lordships, whether the case now in evidence, be not full as strong in the facts and the details, as the Opening, and whether it does not justify all which my honourable and learned friend stated, in discharge of the duty which your lordships imposed upon him. It is impossible for me, my lords, to sit down without alluding to one topic which has been dragged into every cross-examination, and rung in our ears, not only from the beginning to the end of this inquiry, but from the first moment that any mention was made of the subject, and for the purpose of involving in reproach every individual who might happen to take any part in the present proceedings. My lords, I have always felt and avowed, so far from thinking it necessary to justify the Milan Commission, that it was quite impossible for the persons at the head of his majesty's government not to have established some mode of inquiry; that it was quite impossible that they should not have inquired into reports, in the highest degree derogatory to her royal highness, and in general circulation throughout Italy and other parts of Europe. This being the case, was it not, my lords, the duty of government to ascertain, whether those reports were well or ill-founded? In doing this, they had but one course to pursue; which was, to select persons eminent in point of character, eminent for integrity and knowledge to make that inquiry. That course, my lords, they have pursued. As judicious, as proper a selection as could be made, was adopted. The gentleman at the head of the Commission (Mr. Cooke) is known to be a man of the highest respectability, of unimpeachable integrity, and of great skill and knowledge of the laws of his country. He was therefore placed at the head of the Commission—if Commission it can be called—for the pur-

pose of obtaining, not idle rumours, but evidence of facts, such as could alone be admitted in every court of this country. And I ask, my lords, whether it was possible to have a gentleman more fit to conduct such an inquiry? Another gentleman, of great experience, of great practical and professional knowledge was attached to the Commission. A third gentleman, colonel Browne, I am not acquainted with; but I am given to understand that his character stands as high as that of any of those who have dared to traduce it. Am I not then justified, my lords, in saying, that it was the duty of his majesty's government to institute such an inquiry into the truth or falsehood of the reports which were in circulation? And am I not further justified in saying, that they exercised a sound discretion, liable to no imputation whatever, in their selection of the persons to conduct the necessary inquiry? I beg pardon, my lords, for having occupied your lorships attention so long. I have endeavoured fairly and faithfully to state to your lordships the evidence which has been adduced in this case. I have been most anxious not to torture or discolour any fact. If I have done so I sincerely regret it; both for my own sake and for the sake of justice. And I hope I may be allowed, in conclusion, to say—and I do say it from the bottom of my heart, and in the utmost sincerity—that the result of the present inquiry may be, that her majesty shall establish, to the full and entire satisfaction of your lordships, of the country at large, her full and unsullied innocence. Whether, from the present aspect of the case, this be or be not likely, it would be unbecoming in me to offer an opinion. I can only say, that the preamble of the Bill has been proved, unless the proofs should be impeached by evidence clear, distinct, and satisfactory on the part of her majesty.

The Counsel were directed to withdraw.

The Earl of *Lauderdale* rose to propose that the counsel for her majesty should be asked, whether it was now their intention to open the case for the defence, or to ask the delay which had been agreed to.

The Earl of *Lonsdale* said, that in this stage of the proceedings he conceived it was not improper to remind a noble earl (Liverpool) of the observations he had made on a former occasion, respecting one of the provisions of this Bill, and to ask that noble earl what determination he had come to on that subject. His own feelings, he admitted, and he believed the feelings of many of their lordships, were, that it was extremely desirable to separate the two provisions of Degradation and Divorce in the bill. His impression was—an impression in which a large proportion of that House concurred with him, he believed—that the conclusion which their lordships should come to on the bill, ought to be conformable to the evidence alone given at the bar. Where an offence was charged, there should be no aggravation proposed in the punishment. The measure of the punishment ought rather to fall short of the offence. He therefore hoped the noble earl would state whether there was any determination to withdraw the clause of Divorce.

The Earl of *Liverpool* rose to address their lordships in consequence of the observations of the noble earl. Before he spoke to that subject, in order that no unguarded expression of his might convey an idea which he did not intend, he begged to say that it was his decided feeling, and he trusted the feeling of every noble lord who heard him, that no opinion whatever should be formed of the evidence, until the whole defence should be before them. Their minds ought to be kept free from impression respecting it, if possible they ought only to listen, to weigh, and to consider; their minds ought to be kept entirely free upon the evidence before them until the defence should be closed. Having stated thus much, he would say, in reference to what had been said by the noble earl, that it was utterly impossible that any alteration should be made in the bill, until the whole case was closed, until the question of the second reading was disposed of, and the bill should be committed. What he had stated, on the discussion of the motion of a noble baron, was stated in consequence of imputations thrown out respecting the provision alluded to in the bill, and insinuations made, not only in that House, but elsewhere, that Divorce was the object of the bill. He had disclaimed that that had been the object of the bill; he had then stated the object of the bill to be public justice; he had then stated the object of the bill to be to uphold the honour of the country, and not to relieve the illustrious individual at the head of the state. He had then stated, that it might be made a separate proposi-

tion, and it was open to the House to deal with it as they might think proper. He could now most distinctly say, that the illustrious individual alluded to had no wish whatever that the bill should operate as a measure of personal relief. He (lord Liverpool) had introduced the provision of Divorce as a plain and fair inference from the other provision of Degradation, if that were made out. If, however, a strong feeling existed in the House or in the country, founded on religious considerations, against this provision, he was perfectly willing to withdraw it. He wished to confine himself to those observations—he wished to set the illustrious individual right on this subject. The illustrious individual did not wish for it as a measure of personal relief [Hear, hear !].

Earl *Grey* agreed with what the noble earl had stated respecting the propriety of preserving their judgments unbiassed till they could come to a full decision, when the whole case should be closed. When he therefore stated any thing hypothetically, he hoped he would not be understood as prejudging on the one side or the other. A more unseasonable proposition than that suggested by the noble lord, who first spoke, he had never heard. No answer that the noble earl (Liverpool) could have given could have had the effect of warranting such a proposition. It seemed to him to be a proposition to restrain the counsel at the bar within certain limits in their defence. The clause alluded to in the Bill could be considered only when the whole case was closed, and the Bill came under consideration in a committee. Now, it was impossible that any alteration whatever could be proposed or made. The defence was, therefore, to be directed against the whole of the bill, as it stood at present. It was not only a bill of Pains and Penalties, but a bill of Divorce. That was the state of the bill now before their lordships; and to that extent it was the duty of the counsel to direct the evidence for the defence. He agreed with the explanation of the noble lord; for it was only the same statement, somewhat more at length, which he had given on the former occasion referred to; and he (earl Grey) had at the time acquitted him of any such object as that alluded to. He was very glad to hear from the noble earl now what he had been persuaded of at first—that personal relief was not the object of the high and illustrious individual. This was a statement which he received with perfect confidence and satisfaction. Ultimately, without giving any opinion of the result of this proceeding, if the proceeding concluded so as that her majesty should incur pains and penalties, degradation from her high and illustrious situation, he thought, must be the necessary consequence. If she should be degraded from the rank, character, and situation of Queen Consort, she might not remain the wife of the Sovereign. Not because it would be a personal relief to divorce, but because it was absurd in terms that one degraded from the rank of Queen should be the consort of the King. A bill degrading the Queen, who was to remain the wife of the King, must be considered a bill degrading the King also [Hear, hear !]. This was not the time for discussing this subject; but if such a proposition should hereafter be made, he should state his objections to it. At present, such a question could not be introduced for any useful purpose; it could lead to no practical conclusion; it could have no effect whatever on the character of the bill, but on the course to be pursued by counsel for the defence. He, therefore, must regret that the subject had been introduced on the present occasion. Any statements by the noble earl (Liverpool) could be viewed as the declarations of an individual only. The bill bore its own character on the face of it. Upon that bill, as it now stood, their opinions and observations were to be given on the second reading. The clause alluded to could be considered only in the committee. They were not to decide on the fate of the bill, as it now stood, without hearing the whole case, and without discussion, examination, and inquiry.

The Earl of *Lonsdale*, in explanation, denied that he had made any proposal to limit the proceedings of counsel.

Earl *Grey* said, that he understood the noble earl to suggest that the counsel should confine themselves to the clauses inflicting Pain and Penalty, to the exclusion of the clause of Divorce.

The Earl of *Liverpool* considered the question, though put before the counsel were called in, as not intended to affect their mode of proceeding.

Earl *Grey* said, he was sorry if he had misrepresented the noble lord, but he thought that if ever he had heard any thing plainly, the distinction was taken between

a bill of Pains and Penalties and a bill of Divorce.

The Earl of *Donoughmore* said, he had great satisfaction in agreeing with his noble friend. He had not risen, however, merely to express his satisfaction, but his astonishment, at the suggestion of the noble lord on the other side. He meant no disrespect; he believed the noble lord had consulted with no one upon the subject; but this was a most momentous consideration, and he would express freely what he thought in every stage of it. The question now was, the proof of the preamble to the bill; that was, had the illustrious person done what was deserving of a bill of Pains and Penalties, be their amount great or small? Whether the whole or a part of the bill should be passed was not the question at present. They had only one half of the evidence before them. If the illustrious person should not remain Queen—(they had been told a great deal of the public feeling)—what would be the public feeling, if one degraded from the rank of Queen should remain the King's wife? He desired, as a juror, to be enabled to form his opinion on the whole of the issue.

The Counsel were again called in.

Lord Chancellor.—Mr. Brougham, I apprehend it to be the wish of the House to ask you how you propose to proceed? Whether you propose to proceed to state the defence now, or to take the delay agreed to be allowed?

Mr. *Brougham* said, that surrounded as he was with peculiar and rising difficulties, and threatened to be met with a new bill—[Cries of "Order, order!"].

The *Lord Chancellor.*—A question has been put to you by the House, and their lordships require an answer.

Mr. *Brougham.*—My lords, I understood that counsel were now at the bar.

The *Lord Chancellor.*—Counsel were ordered to withdraw, Mr. Brougham, and if they cannot appreciate that courtesy with which the House is accustomed to treat them, by not requiring that they should leave the House, the regulation must, for the future, be enforced. You are asked a question, and you are to confine yourself to the answering that question.

Mr. *Brougham.*—My lords, I am called upon to give an answer to a very serious and momentous question, and it was quite impossible that I can reply to it by a yea or a nay. I was about to state to your lordships the great and growing difficulties with which we have to contend, and to throw myself on your lordships compassion.

The *Lord Chancellor.*—You should appeal to the justice of the House, and not to its compassion. The House is not accustomed to be addressed in this way.

Mr. *Brougham.*—Then I shall put myself on my right. I thought it most respectful to appeal to your compassion, and for no other purpose did I use the expression: however, as you will have the less respectful language, I must adopt it. I ask from you justice then, that as I have had no means of preparation, while my opponents have had opportunities for months before, you will allow me till 12 o'clock to-morrow, which is all the favour I ask.

The *Lord Chancellor.*—The House wish to know if you will commence your case to-morrow, with a view to go through it, or if you intend to apply for delay?

Mr. *Brougham.*—My lords, if I may be permitted to say so, I feel myself in the situation of a counsel, and have a right to change my plan as circumstances may suggest. I appeal to such of your lordships as know any thing of Nisi Prius cases, whether it be not customary for counsel to wait the effect of their defence, before they determine whether they will produce evidence or not. No counsel before was ever so placed on the rack. Permission has always been given the counsel to answer the case made on the other side; and if he finds that he has not made the impression intended, he then asks leave to call evidence. I have not received—I do not say the commands—but the permission of her majesty to ask for any delay at all. Standing in the peculiar situation in which her majesty now stands, having so horrible a prospect before her, and finding it attempted to prove charges of such a character, by evidence of such a description as this, she must feel extremely unwilling to let the case remain so, with all the weight of the Opening, and all the observation of my learned friend who last addressed you. In justice only, if not in compassion, your lordships must see that it is impossible to postpone the right of defence in such circumstances for two or three months. There is only one other alternative. If, indeed, my mouth is to be stopped—if I am not allowed to ex-

ercise what I consider a right, by replying to the case on the other side—I must be content, and reserve myself for that opportunity of explanation that will be afforded elsewhere, and to which I need not now further allude. I have been taken by surprise, in some respect, in being thus called upon to make my election. When I preferred to-day to proceed *instanter* with the cross-examinations, my most powerful motive was, that I should thereby enable the solicitor-general to sum up his case, and so far prevent the necessity, which may be absolutely fatal, of allowing two or three months to elapse before the defence is begun. If I had entertained a notion that it was intended in any quarter to interfere with my explanation, I should have thought twice before I came to a determination under that delusion.

The Counsel were directed to withdraw.

The *Lord Chancellor* hoped that he had not been guilty of the injustice, as well as presumptuousness, of giving from the chair any hint of what might be the decision of the House. He meant simply to ask, what the counsel for the Queen proposed; and, when that was known, it would remain for their lordships to determine. He did not mean to call upon the counsel at this moment to make their election, unless they preferred it; they might defer their answer until to-morrow morning.

The Earl of *Liverpool*, before he moved the adjournment, wished the counsel to be informed, that the question would be put to them to-morrow morning at 12 o'clock.

The Counsel were again called in, and the counsel for her majesty were acquainted that the House desired to be informed in what manner they proposed to proceed, and that to that question the House would receive their answer to-morrow at twelve o'clock.

Mr. *Brougham* begged to be allowed to state, that he had a most anxious duty to discharge: all that he and his friends had hitherto done was mere trifling, mere nibbling at the corners of the case, compared with what he had yet to go through.—Suppose (he continued) it should be your lordships pleasure, at twelve to-morrow, that I should proceed—gracious God! am I to go on at a moment's warning? Am I, in a case like this, not to have a single hour for reflection and consultation? To-morrow, at twelve, I am to be called in to say how we wish to proceed; and is it too much that I should then ask you for a delay until Saturday to make some sort of preparation? Is it not, then, better for your lordships to take my present answer, and to declare whether, to-morrow, you will, or will not, hear me? If your lordships say that you will, then to-morrow, at twelve, I shall be ready to open my case; but you will readily perceive that there is a great distinction between a state of certainty and of uncertainty—between knowing that I am to proceed, and a doubt whether I am merely to answer a question upon which I am now prepared. I should wish to know, whether, to-morrow, I am or I am not to go on with my statement? In a common case, ignorance upon this point would be embarrassing; but in this instance it amounts to absolute injustice.

The *Lord Chancellor* said, that House did not require the counsel for the Queen to proceed to-morrow, but to state how they wished to proceed; they need not begin until they were fully prepared.

Earl *Grey* said, that the application of the counsel was to know whether he would be permitted to make his statement, reserving to himself the right of not determining, until the end of it, whether he should apply for further time to produce his witnesses.

The *Lord Chancellor* remarked, that the question so stated had many bearings, was of infinite importance, and could not be properly discussed in the time yet remaining for the business of the day. It was not to be understood that counsel would be obliged to proceed to-morrow, at twelve; for, if further delay was necessary, God forbid it should not be granted!

Lord *Erskine* thought it the best course that counsel should attend to-morrow morning, when the question of to-day might be repeated to them. He was sure that they might rely with confidence on the House, and that no such injustice would be done, as to compel them to proceed without all due preparation. They had most anxious and onerous duties cast upon them, and every indulgence ought to be extended to them.

Mr. *Brougham* entreated the House not to adjourn for one day unnecessarily; as, if it was now decided that he should proceed, he could be just as well prepared to-morrow, as on Saturday. He could not, however, be prepared to-morrow,

unless their lordships at once decided now that he was to be heard.

The *Lord Chancellor* observed, that it followed, as a consequence, that if counsel could be ready by twelve to-morrow, they could be prepared by Saturday. The House ought to act according to its own notions of what was right, and of what would keep it right. The point stated by the noble earl (Grey) he, for one, considered of infinite importance, and the House ought to allow itself an opportunity for maturely considering it. Certain he was, that the true way for the House to maintain its high character, as a judicial tribunal, was, to act with caution and circumspection in its decisions. He moved that counsel be called in at twelve o'clock to-morrow.

The motion was agreed to. On the question that the House do adjourn,

The Earl of *Donoughmore* rose, for the purpose of preventing any misapprehension on the part of the counsel, who had evidently shown that they had laboured under a mistake; or of the public, which might, by the same cause, be led to a wrong conclusion. The counsel had spoken as if something was endeavoured to be forced upon them by the House as a hardship; but nothing could be more unjust than such a supposition, and it ought not to go forth to the world. Nothing had been said from the woolsack which could be construed into a wish that the counsel should arrive at an immediate determination: on the contrary, what had been stated amounted to this—that, on account of the peculiar circumstances of the case, peculiar indulgence ought to be shown, and all the House wished to know was, when the counsel proposed to proceed. Not a word had been uttered about commencing *instanter*, and he wondered that the Queen's attorney-general had not been able to tell the House, *totidem verbis*, what were his wish and intention. The learned gentleman had talked about making his statement, and then waiting for his evidence; but he (lord D.) hoped that that statement would not be merely imaginary—that it would be founded on facts, and that those facts could be proved. Before he could offer one word of it, he ought to have decided the matter in his mind, and must have the witnesses ready to verify his assertions.

Earl *Grey* wished to understand whether the House adjourned for the purpose of receiving the answer of the Queen's counsel to the question put to them, or for the purpose of hearing to-morrow the statement of the case on the part of her majesty.

The *Lord Chancellor* replied, for the former.

The Earl of *Liverpool* thought, that to-morrow the question ought to be put, Whether the application of the counsel of the Queen continued the same as it had been to-day? If, however, it turned out to be that he wished to go through his case, or that he wished for an adjournment to a future period, he was of opinion that neither request ought, in justice, to be refused. If, on the other hand, a middle course were suggested, which would leave the counsel at liberty either to call his witnesses immediately, or to delay them until a future occasion, that would be a point requiring great deliberation.

The Earl of *Rosslyn* did not conceive that the learned counsel had made the latter proposition in the form of an application. He had only said that until the end of his speech he ought not to be called upon to make his option.

The Counsel were directed to withdraw.

Ordered, that the further consideration, and second reading of the said bill be adjourned to to-morrow.

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Printed by T. C. Hansard, Peterborough-Court,
Fleet-Street, London.